

SESSION LAWS OF MISSOURI

Passed during the

NINETY-FIRST GENERAL ASSEMBLY

First Extraordinary Session, which convened at the City of Jefferson,
Wednesday, September 5, 2001 and adjourned September 14, 2001

Second Regular Session, which convened at the City of Jefferson,
Wednesday, January 9, 2002, and adjourned May 30, 2002.

[Table of Contents](#)



Published by the

MISSOURI JOINT COMMITTEE ON LEGISLATIVE RESEARCH

In compliance with Sections 2.030 and 2.040,
Revised Statutes of Missouri, 2000
and

Senate Concurrent Resolution No. 49
Second Regular Session
Ninety-first General Assembly

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LEGISLATIVE RESEARCH
2001 - 2002

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DEDICATION

The Session Laws of 2002 are dedicated
in grateful recognition for the thirty-six
years of service and contributions of

RALPH C. KIDD
REVISOR OF STATUTES, EMERITUS

HOW TO USE THE SESSION LAWS

The first pages contain the *Popular Name Table*, the *Table of Sections Affected by 2001 Legislation* from the 91st General Assembly, First Extraordinary Session, followed by the *Table of Sections Affected by 2002 Legislation*.

The text of the bills from the 91st General Assembly, First Extraordinary Session, 2001, appears immediately following the tables.

The appropriation bills from 2002 are then presented, with the text of all 2002 House and Senate Bills following in numerical order. The Concurrent Resolutions are printed next, followed by proposed Referendums and Joint Resolutions.

A sponsor index and a subject index are included at the end of this volume.

TABLE OF CONTENTS

FIRST EXTRAORDINARY SESSION NINETY-FIRST GENERAL ASSEMBLY

SECOND REGULAR SESSION NINETY-FIRST GENERAL ASSEMBLY

Pages

PREFACE

Authority for Publishing Session Laws and Resolutions.	vi
Attestation.	vii
Effective Date of Laws (Constitutional Provision).	vii
Joint Resolutions and Initiative Petitions (Constitutional Provision).	viii
Popular Name Table	ix
Table of Sections Affected, 2001 First Extraordinary Session.	xi
Table of Sections Affected, 2002 Second Regular Session.	xiii

2001 LEGISLATION FIRST EXTRAORDINARY SESSION

House Bills.	1
Senate Bills.	19

2002 LEGISLATION SECOND REGULAR SESSION

Appropriation Bills.	33
House Bills.	233
Senate Bills.	679
Vetoed Bills.	1153
Proposed Amendments to Constitution of Missouri.	1155
Proposed Referendums.	1159
House Concurrent Resolutions.	1167
Senate Concurrent Resolutions.	1181

INDEX

Sponsor Index.	1195
Subject Index.	1205

Authority for Publishing Session Laws and Resolutions

Section 2.030, Revised Statutes of Missouri, 2000. — General Assembly to provide for printing and binding of laws. — The sixty-fourth general assembly and each general assembly thereafter, whether in regular or extraordinary session, shall by concurrent resolution adopted by both houses, provide for collating, indexing, printing and binding all laws and resolutions of the session and all measures approved by the people since the last publication of the laws and resolutions in the manner directed by the resolution. The general assembly may by concurrent resolution require that all laws passed by the general assembly and all resolutions adopted prior to any recess of the general assembly for a period of thirty days or more shall be collated, indexed, bound and distributed as provided by law, and any edition published pursuant to the concurrent resolution is a part of the official laws and resolutions of the general assembly at which the laws and resolutions were passed.

Section 2.040, Revised Statutes of Missouri, 2000. — Duties of Legislative Research in printing and binding. — The joint committee on legislative research shall provide copies of all laws, measures and resolutions duly enacted by the general assembly and all amendments to the constitution and all measures approved by the people since the last publication of such laws and resolutions, giving the date of the approval or adoption thereof for printing in accordance with the directions of the general assembly as given by concurrent resolution. The joint committee on legislative research shall edit, headnote, collate, index the laws, resolutions and constitutional amendments, and shall compare the proof sheets of the printed copies with the original rolls, note all errors which have been committed, if any, and cause errata thereof to be annexed to the completed printed copies, and the revisor of statutes shall insert therein an attestation under the revisor's hand that the revisor has compared the laws, resolutions, constitutional amendments and measures therein contained with the original rolls and copies in the office of the secretary of state and that the same are true copies of such laws, measures, resolutions and constitutional amendments as the same appear in the original rolls in the office of the secretary of state. The joint committee on legislative research shall cause the completed laws, resolutions and constitutional amendments to be printed and bound.

SENATE CONCURRENT RESOLUTION NO. 49, 2002 General Assembly.—BE IT RESOLVED by the members of the Senate of the Ninety-first General Assembly, Second Regular Session, the House of Representatives concurring therein, that the Missouri Committee on Legislative Research shall prepare and cause to be collated, indexed, printed, and bound all acts and resolutions of the Ninety-first General Assembly, Second Regular Session, and shall examine the printed copies and compare them with and correct the same by the original rolls, together with an attestation under the hand of the Revisor of Statutes that he has compared the same with the original rolls in his office and has corrected the same thereby; and

BE IT RESOLVED that the size and quality of the paper and binding shall be substantially the same as used in prior session laws, and the size and style of type shall be determined by the Revisor of Statutes; and

BE IT RESOLVED that the Joint Committee on Legislative Research is authorized to print and bind copies of the acts and resolutions of the Ninety-first General Assembly, Second Regular Session, with appropriate indexing; and

BE IT FURTHER RESOLVED that the Revisor of Statutes is authorized to determine the number of copies to be printed.

ATTESTATION

STATE OF MISSOURI)

) ss.

City of Jefferson)

I, Patricia L. Buxton, Revisor of Statutes, hereby certify that I have collated carefully the laws and resolutions passed by the Ninety-First General Assembly of the State of Missouri, convened in first extraordinary session and second regular session, as they are contained in the following pages, and have compared them with the original rolls and have corrected them thereby. Headnotes are used for the convenience of the reader and are not part of the laws they precede.

IN TESTIMONY WHEREOF, I have hereunto set my hand at my office in the City of Jefferson this 1st day of August A.D. two thousand two.

PATRICIA L. BUXTON
REVISOR OF STATUTES

EFFECTIVE DATE OF LAWS

Section 29, Article III of the Constitution provides:

“No law passed by the general assembly, except an appropriation act, shall take effect until ninety days after the adjournment of the session in either odd-numbered or even-numbered years at which it was enacted. However, in case of an emergency which must be expressed in the preamble or in the body of the act, the general assembly by a two-thirds vote of the members elected to each house, taken by yeas and nays may otherwise direct; and further except that, if the general assembly recesses for thirty days or more it may prescribe by joint resolution that laws previously passed and not effective shall take effect ninety days from the beginning of the recess.”

The Ninety-first General Assembly, First Extraordinary Session, convened Wednesday, September 5, 2001, and adjourned September 14, 2001. All laws passed during this extraordinary session contained an emergency clause.

The Ninety-first General Assembly, Second Regular Session, convened Wednesday, January 9, 2002, and adjourned May 30, 2002. All laws passed by it (other than appropriation acts, those having emergency clauses or different effective dates) became effective ninety days thereafter on August 28, 2002.

JOINT RESOLUTIONS AND INITIATIVE PETITIONS

Section 2(b), Article XII of the Constitution provides:

“All amendments proposed by the general assembly or by the initiative shall be submitted to the electors for their approval or rejection by official ballot title as may be provided by law, on a separate ballot without party designation, at the next general election, or at a special election called by the governor prior thereto, at which he may submit any of the amendments..... If a majority of the votes cast thereon is in favor of any amendment, the same shall take effect at the end of thirty days after the election. More than one amendment at the same election shall be so submitted as to enable the electors to vote on each amendment separately.”

The Ninety-first General Assembly, Second Regular Session, passed two Joint Resolutions. Resolutions to be published as provided in Section 116.340, RSMo 2000, which reads:

“**116.340. Publication of approved measures.** — When a statewide ballot measure is approved by the voters, the secretary of state* shall publish it with the laws enacted by the following session of the general assembly, and the revisor of statutes shall include it in the next edition or supplement of the revised statutes of Missouri. Each of the measures printed above shall include the date of the proclamation or statement of approval under section 116.330.”

*The publication of session laws was delegated to the Joint Committee on Legislative Research in 1997 by Senate Bill 459, section 2.040.

The headnotes used to describe sections printed in this volume may not be identical with the headnotes which appear in the 2002 Supplement to the Revised Statutes of Missouri. Every attempt has been made to develop headnotes which adequately describe the textual material contained in the section.



The Joint Committee on Legislative Research is
pleased to state that the *2002 Session Laws* is
produced with soy-based ink.

POPULAR NAME TABLE

2002 LEGISLATION

A+ Schools Program, SB 859
Section 160.545

Children At-Risk in Education Program, HB 1711
Section 166.260

Contiguous Property Redevelopment Fund, SB 992
Section 447.721

Enterprise Zones, SB 856
Sections 135.200 to 135.225
Carl Junction, Section 135.260
Wright County, Section 135.259

Family Literacy Program, HB 1711
Defined, Section 160.011
Authorized, Section 160.051

Foster Parents' Bill of Rights, SB 923
Section 210.566

Gray Market Cigarette Sales, SB 1266
Sections 149.200 to 149.215

Ozark Mills Country, SB 1199
Section 226.1000

Payday Loans, SB 884
Sections 408.500 to 408.506

Performance and Priority Schools, HB 1711
Section 160.720

Pharmacy Tax Program, SB 1248
Section 338.500 to 338.550

Proposition B, SB 915, et al.

Regional Jail District Sales Tax Trust Fund, HB 1078
Section 221.407

Safe Place for Newborns Act, HB 1443
Section 210.950

Simplified Sales and Use Tax Administration Act, HB 1150, et al.
Sections 144.1000 to 144.1015

Tax Amnesty, HB 1150, et al.
Sections 32.375 to 32.382

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**TABLE OF SECTIONS AFFECTED
BY
2001 LEGISLATION**

**91st General Assembly,
First Extraordinary Session**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
135.095	Amended	HB 3	208.562	New	HB 3
135.095	Amended	SB 4	208.562	New	SB 4
143.172	New	HB 5	208.565	New	HB 3
143.172	New	SB 3	208.565	New	SB 4
208.151	Amended	HB 3	208.568	New	HB 3
208.151	Amended	SB 4	208.568	New	SB 4
208.550	New	HB 3	208.571	New	HB 3
208.550	New	SB 4	208.571	New	SB 4
208.553	New	HB 3	208.574	New	HB 3
208.553	New	SB 4	208.574	New	SB 4
208.556	New	HB 3	277.201	New	HB 4
208.556	New	SB 4	277.202	New	HB 4
208.559	New	HB 3	277.203	Repealed	HB 4
208.559	New	SB 4	277.212	Amended	HB 4

HB 3 Effective 10-05-01, except 208.574 effective 12-13-01

HB 4 Effective 09-28-01

HB 5 Effective 10-09-01

SB 3 Effective 10-09-01

SB 4 Effective 10-05-01, except 208.574 effective 12-13-01

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208.559	New	HB 3	277.203	Repealed	HB 4
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208.553	New	SB 4	208.574	New	SB 4
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SECTION	ACTION	BILL		SECTION	ACTION	BILL
8.010	Amended	SB 1191		8.570	New	SB 1191
8.115	New	SB 1119		8.572	New	SB 1191
8.231	Amended	SB 810		8.575	New	SB 1191
8.231	Amended	SB 1012		8.580	New	SB 1191
8.235	New	SB 810		8.585	New	SB 1191
8.500	New	SB 1191		8.590	New	SB 1191
8.505	New	SB 1191		8.592	New	SB 1191
8.510	New	SB 1191		8.595	New	SB 1191
8.515	New	SB 1191		9.115	New	HB 1519
8.520	New	SB 1191		9.130	Amended	SB 726
8.525	New	SB 1191		9.132	New	HB 1668
8.530	New	SB 1191		9.141	New	SB 831
8.535	New	SB 1191		10.140	New	HB 1141
8.540	New	SB 1191		10.140	New	HB 1988
8.545	New	SB 1191		21.250	Vetoed	SB 749
8.550	New	SB 1191		21.265	Vetoed	SB 749
8.552	New	SB 1191		28.160	Amended	HB 1776
8.555	New	SB 1191		28.160	Amended	SB 675
8.557	New	SB 1191		28.160	Amended	SB 923
8.560	New	SB 1191		30.260	Amended	SB 895
8.565	New	SB 1191		32.068	New	SB 1248

**TABLE OF SECTIONS AFFECTED
BY
2002 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
32.069	New	SB 1248	44.010	Amended	SB 712
32.087	Amended	HB 1890	44.023	Amended	SB 712
32.375	New	HB 1150	50.1020	Amended	HB 1455
32.378	New	HB 1150	50.1040	Amended	HB 1455
32.380	New	HB 1150	52.250	Amended	HB 1634
32.381	New	HB 1150	52.290	Amended	HB 1634
37.450	New	HB 1270	52.300	Amended	SB 720
37.452	New	HB 1270	52.312	New	HB 1634
38.050	New	SB 712	52.315	New	HB 1634
41.150	Amended	HB 2047	52.317	New	HB 1634
41.948	Amended	HB 2047	53.135	Amended	HB 1982
42.170	Amended	HB 1398	54.261	Amended	HB 2137
42.175	Amended	HB 1398	54.323	New	HB 1634
42.175	Amended	HB 1399	54.325	New	HB 1634
43.518	Amended	HB 1895	54.327	New	HB 1634
43.540	Amended	SB 758	54.330	Amended	SB 720
43.540	Amended	SB 969	56.363	Amended	HB 2080
43.540	Vetoed	SB 1070	56.807	Amended	HB 2080
43.653	New	SB 969	57.962	New	SB 1001
43.656	New	SB 969	58.260	Amended	HB 2002
43.659	New	SB 969	58.260	Amended	SB 1113

**TABLE OF SECTIONS AFFECTED
BY
2002 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
58.270	Amended	HB 2002		67.1808	New	HB 1041
58.270	Amended	SB 1113		67.1810	New	HB 1041
58.310	Amended	HB 2002		67.1812	New	HB 1041
58.310	Amended	SB 1113		67.1814	New	HB 1041
58.330	Amended	HB 2002		67.1816	New	HB 1041
58.330	Amended	SB 1113		67.1818	New	HB 1041
58.340	Amended	HB 2002		67.1820	New	HB 1041
58.340	Amended	SB 1113		67.1822	New	HB 1041
58.360	Amended	HB 2002		67.1866	Amended	SB 1028
58.360	Amended	SB 1113		67.1958	New	HB 1041
59.800	Amended	HB 1776		71.005	New	SB 675
59.800	Amended	SB 1078		71.285	Amended	SB 1086
61.021	Repealed	HB 1270		71.286	New	SB 918
67.398	Amended	SB 1086		71.970	New	HB 1402
67.402	New	SB 1086		80.210	Amended	HB 1846
67.1360	Amended	HB 1041		82.293	New	HB 1711
67.1361	New	SB 1210		84.140	Amended	HB 1773
67.1800	New	HB 1041		84.160	Amended	HB 1773
67.1802	New	HB 1041		84.160	Amended	SB 967
67.1804	New	HB 1041		86.200	Amended	HB 1455
67.1806	New	HB 1041		86.213	Amended	HB 1455

**TABLE OF SECTIONS AFFECTED
BY
2002 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
86.251	Amended	HB 1455		87.238	New	HB 1455
86.255	Amended	HB 1455		87.238	New	SB 1107
86.256	Amended	HB 1455		87.487	New	SB 1247
86.294	New	HB 1455		92.327	Amended	HB 1041
86.296	New	HB 1455		92.327	Amended	SB 1210
86.370	Vetoed	SB 961		92.336	Amended	HB 1041
86.374	Vetoed	SB 961		92.336	Amended	SB 1210
86.398	Vetoed	SB 961		92.852	New	HB 2064
86.447	Vetoed	SB 961		94.875	Amended	HB 1041
86.600	Vetoed	SB 961		94.875	Amended	SB 1151
86.611	Vetoed	SB 961		99.050	Amended	SB 1039
86.671	Vetoed	SB 961		99.134	Amended	SB 1039
86.745	Vetoed	SB 961		99.847	Amended	SB 1107
87.177	New	HB 1455		104.050	Amended	HB 1455
87.177	New	SB 1107		104.095	Repealed	HB 1455
87.207	Amended	HB 1455		104.110	Amended	HB 1455
87.207	Amended	SB 1107		104.140	Amended	HB 1455
87.231	New	HB 1455		104.250	Amended	HB 1455
87.231	New	SB 1107		104.254	Amended	HB 1455
87.235	Amended	HB 1455		104.270	Amended	HB 1455
87.235	Amended	SB 1107		104.335	Amended	HB 1455

TABLE OF SECTIONS AFFECTED BY 2002 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
104.344	Amended	HB 1455	104.1055	New	HB 1455
104.350	Amended	HB 1455	104.1066	Amended	HB 1455
104.374	Amended	HB 1455	104.1072	Amended	HB 1455
104.380	Amended	HB 1455	104.1075	Amended	HB 1455
104.400	Amended	HB 1455	104.1084	Amended	HB 1455
104.436	Amended	HB 1455	104.1093	Amended	HB 1455
104.438	Amended	HB 1455	104.1200	Amended	HB 1455
104.515	Amended	HB 1455	104.1210	Amended	HB 1455
104.540	Amended	HB 1455	104.1215	Amended	HB 1455
104.601	Amended	HB 1455	105.270	Amended	HB 1822
104.605	New	HB 1455	105.477	Amended	HB 1840
104.620	Amended	HB 1455	105.661	Amended	HB 1674
104.625	Amended	HB 1455	105.664	New	HB 1455
104.800	Amended	HB 1455	108.140	Amended	HB 1711
104.805	New	SB 1202	108.240	Amended	SB 1143
104.1015	Amended	HB 1455	115.013	Amended	SB 675
104.1018	Amended	HB 1455	115.074	New	SB 675
104.1021	Amended	HB 1455	115.076	New	SB 675
104.1024	Amended	HB 1455	115.081	Amended	SB 675
104.1039	Amended	HB 1455	115.083	Repealed	SB 675
104.1054	Amended	HB 1455	115.085	Amended	SB 675

**TABLE OF SECTIONS AFFECTED
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2002 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
115.087	Amended	SB 675		115.179	Amended	SB 675
115.089	Amended	SB 675		115.195	Amended	SB 675
115.095	Amended	SB 675		115.225	Amended	SB 675
115.097	Amended	SB 675		115.233	Amended	SB 675
115.098	New	SB 675		115.237	Amended	SB 675
115.099	Amended	SB 675		115.277	Amended	SB 675
115.101	Amended	SB 675		115.279	Amended	SB 675
115.102	New	SB 675		115.283	Amended	SB 675
115.122	Repealed	SB 675		115.284	Amended	SB 675
115.123	Amended	SB 675		115.287	Amended	SB 675
115.126	New	SB 675		115.291	Amended	SB 675
115.127	Amended	SB 675		115.365	Amended	SB 675
115.133	Amended	SB 675		115.367	Amended	SB 675
115.135	Amended	SB 675		115.409	Amended	SB 675
115.137	Amended	SB 675		115.417	Amended	SB 675
115.151	Amended	SB 675		115.419	Amended	SB 675
115.157	Amended	SB 675		115.420	New	SB 675
115.159	Amended	SB 675		115.427	Amended	SB 675
115.160	Amended	SB 675		115.429	Amended	SB 675
115.162	Amended	SB 675		115.433	Amended	SB 675
115.163	Amended	SB 675		115.439	Amended	SB 675

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BY
2002 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
115.453	Amended	SB 675		137.115	Amended	HB 1150
115.493	Amended	SB 675		137.245	Amended	HB 2018
115.507	Amended	HB 1636		137.495	Amended	HB 2130
115.507	Amended	SB 675		137.495	Amended	SB 1217
115.507	Amended	SB 962		138.010	Amended	HB 1580
115.607	Amended	SB 675		138.020	Amended	HB 1580
115.613	Amended	HB 1342		138.060	Amended	HB 1150
115.613	Amended	SB 675		138.100	Amended	HB 1150
115.755	Amended	SB 675		139.235	Amended	SB 895
115.801	New	SB 675		140.110	Amended	SB 997
115.803	New	SB 675		141.265	Repealed	HB 2078
115.806	New	SB 675		141.610	Amended	HB 1634
116.050	Vetoed	SB 749		141.750	Amended	HB 1634
130.016	Vetoed	HB 1495		141.770	Amended	HB 1634
130.046	Amended	HB 1492		141.790	Amended	HB 1634
135.259	New	SB 856		142.027	Repealed	HB 2078
135.260	New	SB 856		142.028	Amended	HB 1348
135.327	Amended	SB 923		142.028	Amended	SB 984
136.055	Amended	HB 1196		142.031	New	HB 1348
136.320	New	SB 1248		142.803	Amended	HB 1196
137.073	Amended	HB 1150		142.803	Amended	SB 915

**TABLE OF SECTIONS AFFECTED
BY
2002 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
143.081	Amended	SB 895		149.206	Amended	SB 1266
143.121	Amended	SB 1248		149.212	Amended	SB 1266
143.122	New	SB 1248		149.215	Amended	SB 1266
143.811	Amended	SB 1248		150.465	Amended	HB 1888
144.013	New	HB 1890		155.080	Amended	HB 1196
144.020	Amended	SB 915		160.011	Amended	HB 1711
144.021	Amended	SB 915		160.051	Amended	HB 1711
144.190	Amended	HB 1890		160.360	Amended	HB 1515
144.440	Amended	SB 915		160.518	Amended	HB 1711
144.700	Amended	SB 915		160.530	Amended	HB 1711
144.805	Amended	HB 1196		160.531	New	HB 1711
144.1000	New	HB 1150		160.545	Amended	SB 859
144.1003	New	HB 1150		160.720	New	HB 1711
144.1006	New	HB 1150		161.092	Amended	HB 1711
144.1009	New	HB 1150		161.400	Amended	HB 1783
144.1012	New	HB 1150		161.403	Amended	HB 1783
144.1015	New	HB 1150		161.405	Amended	HB 1783
148.020	Amended	SB 895		161.407	Amended	HB 1783
148.610	Amended	SB 895		161.410	New	HB 1783
149.200	Amended	SB 1266		161.655	New	HB 1973
149.203	Amended	SB 1266		162.670	Amended	HB 2023

TABLE OF SECTIONS AFFECTED BY 2002 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
162.675	Amended	HB 2023	182.825	New	HB 1402
162.700	Amended	SB 874	182.827	New	HB 1402
162.961	Amended	HB 2023	190.044	Repealed	SB 1107
162.962	Amended	HB 2023	190.050	Amended	SB 1107
163.011	Amended	HB 1711	190.051	New	SB 1107
163.036	Amended	HB 1711	190.092	Amended	SB 1107
166.260	Amended	HB 1711	190.094	Amended	SB 1107
166.415	Amended	SB 776	190.100	Amended	SB 1107
166.456	New	HB 1086	190.101	Amended	HB 1953
166.456	New	SB 776	190.101	Amended	SB 1107
168.071	Amended	SB 722	190.105	Amended	SB 1107
168.081	Amended	SB 722	190.108	Amended	SB 1107
168.083	New	SB 722	190.109	Amended	SB 1107
168.400	Amended	HB 1711	190.120	Amended	SB 1107
170.014	New	HB 1711	190.131	Amended	SB 1107
171.021	Amended	SB 718	190.133	Amended	SB 1107
174.332	New	HB 1406	190.142	Amended	SB 1107
178.870	Amended	HB 2022	190.143	Amended	SB 1107
178.870	Amended	SB 947	190.145	New	SB 1107
178.881	New	HB 2022	190.160	Amended	SB 1107
178.881	New	SB 947	190.165	Amended	SB 1107

**TABLE OF SECTIONS AFFECTED
BY
2002 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
190.171	Amended	SB 1107		191.656	Amended	HB 1756
190.172	New	SB 1107		191.659	Amended	HB 1756
190.175	Amended	SB 1107		191.677	Amended	HB 1756
190.185	Amended	SB 1107		191.680	Amended	SB 1102
190.196	Amended	SB 1107		191.863	Amended	HB 2117
190.246	New	SB 1107		191.905	Amended	HB 1888
190.248	New	SB 1107		191.925	Amended	HB 1548
190.500	Amended	SB 712		191.925	Amended	SB 923
190.500	Amended	SB 714		191.925	Amended	SB 1244
190.525	New	SB 1107		191.928	Amended	HB 1783
190.528	New	SB 1107		191.934	Amended	HB 1783
190.531	New	SB 1107		192.016	Amended	HB 1443
190.534	New	SB 1107		192.016	Amended	SB 923
190.537	New	SB 1107		192.323	Amended	HB 1812
191.227	Amended	SB 923		192.707	Amended	HB 1953
191.233	Repealed	SB 923		192.712	Amended	HB 1953
191.305	Amended	HB 1953		192.745	Amended	HB 1953
191.400	Amended	HB 1032		193.065	Amended	SB 1132
191.400	Amended	SB 976		194.220	Amended	SB 1026
191.630	New	SB 1107		194.230	Amended	SB 1026
191.631	New	SB 1107		195.041	New	SB 712

TABLE OF SECTIONS AFFECTED BY 2002 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
197.272	Amended	HB 1953	210.170	Amended	SB 695
197.450	Amended	HB 1953	210.201	Amended	SB 923
198.439	Amended	HB 1781	210.566	New	SB 923
198.439	Amended	SB 1094	210.906	Amended	SB 923
204.472	New	SB 984	210.950	New	HB 1443
208.344	New	SB 923	210.1007	New	SB 923
208.631	Amended	HB 1926	211.031	Amended	SB 923
208.660	Repealed	HB 1926	211.181	Amended	SB 923
209.285	Amended	HB 1783	214.270	Amended	SB 892
209.287	Amended	HB 1783	214.330	Amended	HB 1537
209.292	Amended	HB 1783	214.387	Amended	SB 892
209.318	Amended	HB 1783	214.550	New	HB 1148
209.319	Amended	HB 1783	217.440	Repealed	HB 2078
209.321	Amended	HB 1783	217.665	Amended	HB 1455
209.322	New	HB 1783	217.690	Amended	SB 969
209.323	Amended	HB 1783	221.407	New	HB 1078
209.326	Amended	HB 1783	226.094	New	SB 915
209.334	Amended	HB 1783	226.200	Amended	HB 1196
210.001	Amended	SB 923	226.200	Amended	SB 915
210.115	Amended	SB 923	226.540	Amended	HB 1196
210.145	Amended	SB 923	226.540	Amended	HB 1508

**TABLE OF SECTIONS AFFECTED
BY
2002 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
226.550	Amended	HB 1196	229.222	New	HB 2039
226.550	Amended	HB 1508	233.160	Amended	HB 1839
226.573	Amended	HB 1196	238.207	Amended	SB 891
226.573	Amended	HB 1508	242.010	Amended	SB 941
226.580	Amended	HB 1196	242.200	Amended	SB 941
226.580	Amended	HB 1508	242.210	Amended	SB 941
226.585	Amended	HB 1196	247.030	Vetoed	HB 1748
226.585	Amended	HB 1508	247.030	Amended	SB 984
226.1000	New	SB 915	247.031	Vetoed	HB 1748
226.1115	New	HB 1270	247.031	Amended	SB 984
227.100	Amended	HB 1196	247.040	Vetoed	HB 1748
227.107	New	HB 1196	247.040	Amended	SB 984
227.317	New	HB 1141	247.217	Vetoed	HB 1748
227.319	New	HB 1141	247.217	Amended	SB 984
227.321	New	HB 1141	247.220	Vetoed	HB 1748
227.323	New	HB 1141	247.220	Amended	SB 984
227.323	New	SB 950	250.140	Amended	SB 932
227.326	New	HB 1141	252.235	Amended	HB 1888
227.329	New	HB 1141	253.080	Amended	SB 1015
227.333	New	HB 1141	253.082	Amended	SB 1015
227.333	New	SB 1199	253.092	New	SB 1015

**TABLE OF SECTIONS AFFECTED
BY
2002 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
253.095	New	SB 1015	278.258	New	SB 984
253.395	New	SB 992	294.011	Amended	SB 923
254.020	Amended	HB 1348	294.024	Amended	SB 923
254.040	Amended	HB 1348	294.030	Amended	SB 923
254.225	New	HB 1348	294.043	Amended	SB 923
260.200	Amended	SB 984	294.060	Amended	SB 923
260.270	Amended	SB 1011	294.090	Amended	SB 923
261.110	Amended	HB 1348	294.121	Amended	SB 923
261.120	New	HB 1348	294.141	Amended	SB 923
261.230	Amended	HB 1348	300.075	Amended	HB 1270
261.235	Amended	HB 1348	300.080	Amended	HB 1270
261.239	Amended	HB 1348	300.100	Amended	HB 1270
261.240	New	HB 1348	300.105	Amended	HB 1270
261.241	New	SB 639	300.110	Amended	HB 1270
263.531	Amended	HB 1348	300.125	Repealed	HB 1270
263.531	Amended	SB 865	300.160	Amended	HB 1270
270.170	Amended	HB 1348	300.215	Amended	HB 1270
270.260	New	HB 1348	300.300	Amended	HB 1270
270.400	New	HB 1348	300.348	Amended	HB 1270
275.464	Amended	HB 1348	300.350	Amended	HB 1270
278.258	Vetoed	HB 1748	300.585	Amended	HB 1270

**TABLE OF SECTIONS AFFECTED
BY
2002 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
300.595	Repealed	HB 1270		301.600	Amended	HB 2008
301.129	Vetoed	HB 1789		301.600	Amended	SB 895
301.131	Vetoed	HB 1789		301.610	Amended	HB 2008
301.131	Amended	SB 957		301.610	Amended	SB 895
301.131	Amended	SB 1093		301.620	Amended	HB 2008
301.144	Amended	HB 2008		301.620	Amended	SB 895
301.193	New	HB 1075		301.630	Amended	HB 2008
301.441	Amended	HB 1205		301.630	Amended	SB 895
301.448	Amended	HB 1205		301.640	Amended	HB 2008
301.450	New	HB 1205		301.640	Amended	SB 895
301.453	Vetoed	HB 1789		301.660	Amended	HB 2008
301.453	Amended	SB 798		301.660	Amended	SB 895
301.469	Amended	HB 1093		301.661	Repealed	HB 2008
301.481	New	HB 1093		301.2999	New	HB 1093
301.481	New	SB 737		301.2999	New	SB 1241
301.550	Amended	HB 2008		301.3042	New	SB 966
301.560	Amended	HB 1838		301.3060	New	HB 1205
301.560	Amended	HB 2008		301.3065	New	HB 1093
301.560	Amended	HB 2009		301.3080	New	HB 1093
301.560	Amended	SB 895		301.3082	New	HB 1093
301.567	New	HB 2008		301.3084	New	HB 1093

TABLE OF SECTIONS AFFECTED
BY
2002 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
301.3085	New	HB 1205	301.3102	New	HB 1093
301.3085	New	SB 745	301.3103	New	HB 1093
301.3086	New	HB 1093	301.3105	New	HB 1205
301.3086	New	SB 1241	301.3106	Vetoed	HB 1789
301.3087	New	SB 960	301.3107	New	HB 1205
301.3088	New	HB 1093	301.3109	New	HB 1093
301.3089	New	HB 1093	301.3112	New	SB 1241
301.3090	New	HB 1205	301.3115	New	SB 960
301.3090	New	SB 957	301.3116	New	HB 1205
301.3092	New	HB 1093	301.3116	New	SB 957
301.3093	New	HB 1093	301.3117	New	HB 1093
301.3094	New	HB 1093	301.3118	New	HB 1093
301.3095	New	HB 1093	301.3119	New	HB 1093
301.3096	New	HB 1093	301.4000	New	HB 1205
301.3097	New	HB 1093	301.4000	New	SB 644
301.3097	New	SB 960	302.010	Amended	HB 2062
301.3098	New	HB 1093	302.130	Amended	HB 1270
301.3098	New	SB 1241	302.137	Amended	HB 1270
301.3099	New	HB 1093	302.169	New	HB 1265
301.3099	New	SB 1241	302.176	New	SB 1109
301.3101	New	HB 1093	302.304	Amended	HB 2062

**TABLE OF SECTIONS AFFECTED
BY
2002 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
302.321	Amended	HB 1270	306.400	Amended	SB 895
302.525	Amended	HB 2062	306.405	Amended	HB 2008
302.535	Amended	HB 2062	306.405	Amended	SB 895
302.540	Amended	HB 2062	306.410	Amended	HB 2008
302.720	Amended	HB 1270	306.410	Amended	SB 895
302.721	New	HB 1270	306.420	Amended	HB 2008
304.001	Amended	HB 1270	306.420	Amended	SB 895
304.022	Amended	HB 1270	306.430	Amended	HB 2008
304.027	Amended	HB 1270	306.430	Amended	SB 895
304.027	Amended	SB 1048	306.440	Amended	HB 2008
304.028	New	HB 1270	307.173	Amended	HB 1386
304.200	Amended	HB 1270	307.173	Amended	SB 727
304.200	Amended	SB 974	307.177	Amended	SB 712
304.370	New	HB 1270	307.205	New	HB 1270
304.370	New	SB 712	307.207	New	HB 1270
305.120	Amended	SB 701	307.209	New	HB 1270
305.130	Amended	SB 701	307.211	New	HB 1270
305.140	Amended	SB 701	307.402	New	HB 1270
305.230	Amended	HB 1196	308.010	New	SB 1202
306.124	Amended	SB 712	311.070	Amended	SB 834
306.400	Amended	HB 2008	311.178	Amended	SB 834

**TABLE OF SECTIONS AFFECTED
BY
2002 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
311.481	New	HB 1041	326.286	Amended	HB 1600
311.481	New	SB 834	326.289	Amended	HB 1600
311.554	Amended	HB 1348	326.292	Amended	HB 1600
311.680	Amended	SB 834	327.465	New	SB 786
313.300	Amended	SB 1248	332.327	Amended	HB 2001
313.301	New	SB 1248	334.002	New	SB 1182
313.353	Repealed	HB 2078	334.073	New	SB 1207
318.100	Amended	HB 1600	334.097	New	SB 1024
321.130	Amended	SB 1107	334.104	Amended	SB 1182
321.180	Amended	SB 1107	334.540	Vetoed	SB 980
321.552	New	SB 1107	335.016	Amended	HB 1600
321.554	New	SB 1107	338.500	New	SB 1248
321.556	New	SB 1107	338.501	New	SB 1248
323.060	Amended	SB 984	338.505	New	SB 1248
324.147	Amended	HB 1937	338.510	New	SB 1248
324.150	Amended	HB 1937	338.515	New	SB 1248
324.171	Amended	HB 1937	338.520	New	SB 1248
326.256	Amended	HB 1600	338.525	New	SB 1248
326.271	Amended	HB 1600	338.530	New	SB 1248
326.280	Amended	HB 1600	338.535	New	SB 1248
326.283	Amended	HB 1600	338.540	New	SB 1248

**TABLE OF SECTIONS AFFECTED
BY
2002 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
338.545	New	SB 1248	360.111	Amended	SB 947
338.550	New	SB 1248	360.112	Amended	HB 1477
339.010	Amended	HB 1964	360.112	Amended	SB 947
339.710	Amended	HB 1964	361.700	Amended	SB 895
339.720	Amended	HB 1964	362.011	New	HB 1537
339.770	Amended	HB 1964	362.011	New	SB 742
344.060	Amended	HB 1953	362.020	Amended	SB 895
348.430	Amended	HB 1348	362.106	Amended	SB 895
348.432	Amended	HB 1348	362.117	Amended	SB 895
351.120	Amended	SB 895	362.170	Amended	SB 895
351.140	Amended	SB 895	362.245	Amended	SB 895
351.145	Amended	SB 895	362.270	Amended	SB 895
351.150	Amended	SB 895	362.275	Amended	SB 895
351.155	Amended	SB 895	362.335	Amended	SB 895
352.400	New	SB 923	364.120	Amended	SB 895
354.407	New	SB 1094	365.070	Amended	HB 2008
355.856	Amended	SB 895	365.100	Amended	SB 895
356.211	Amended	SB 895	365.120	Amended	HB 2008
360.106	Amended	HB 1477	365.140	Amended	SB 895
360.106	Amended	SB 947	367.031	Amended	HB 1888
360.111	Amended	HB 1477	367.044	Amended	HB 1888

TABLE OF SECTIONS AFFECTED BY 2002 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
367.055	Amended	HB 1888	376.429	New	SB 1026
367.518	Amended	SB 895	376.671	Amended	HB 1568
370.061	Amended	HB 1921	376.671	Amended	SB 1009
370.120	Amended	HB 1921	376.951	Amended	HB 1568
375.018	Amended	SB 895	376.951	Amended	SB 1009
375.065	Amended	SB 895	376.952	Amended	HB 1568
375.246	Amended	HB 1568	376.952	Amended	SB 1009
375.330	Amended	HB 1568	376.955	Amended	HB 1568
375.330	Amended	SB 1009	376.955	Amended	SB 1009
375.345	Amended	SB 1009	376.957	Amended	HB 1568
375.775	Amended	HB 1468	376.957	Amended	SB 1009
375.918	New	HB 1502	376.1121	New	HB 1568
375.919	New	HB 1381	376.1121	New	SB 1009
375.919	New	SB 656	376.1124	New	HB 1568
375.919	New	SB 895	376.1124	New	SB 1009
375.1202	Amended	HB 1568	376.1127	New	HB 1568
375.1730	New	HB 1532	376.1127	New	SB 1009
376.307	Amended	HB 1518	376.1130	New	HB 1568
376.307	Amended	SB 1009	376.1130	New	SB 1009
376.311	Amended	HB 1568	376.1219	Amended	SB 1026
376.311	Amended	SB 1009	376.1253	New	SB 1026

**TABLE OF SECTIONS AFFECTED
BY
2002 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
376.1275	New	SB 1026	393.700	Amended	HB 1402
376.1350	Amended	HB 1468	393.705	Amended	HB 1402
376.1350	Amended	HB 1473	393.705	Vetoed	HB 1748
376.1450	New	HB 1473	393.715	Amended	HB 1402
379.080	Amended	HB 1568	393.725	Amended	HB 1402
379.080	Amended	SB 1009	393.740	Amended	HB 1402
379.321	Amended	HB 1468	393.765	Repealed	HB 1402
379.362	Repealed	HB 1468	393.847	Vetoed	HB 1748
379.889	Amended	HB 1468	393.847	Amended	SB 984
379.890	Amended	HB 1468	400.9.102	Amended	SB 895
385.050	Amended	SB 895	400.9.109	Amended	SB 895
386.025	Repealed	HB 1402	400.9.303	Amended	SB 895
386.887	New	HB 1402	400.9.317	Amended	SB 895
388.610	Amended	SB 1213	400.9.323	Amended	SB 895
388.640	Amended	SB 1213	400.9.406	Amended	SB 895
389.005	Amended	SB 1202	400.9.407	Amended	SB 895
389.610	Amended	SB 1202	400.9.408	Amended	SB 895
392.410	Amended	HB 1402	400.9.409	Amended	SB 895
393.130	Amended	HB 1635	400.9.504	Amended	SB 895
393.295	Repealed	HB 1402	400.9.509	Amended	SB 895
393.310	New	HB 1402	400.9.513	Amended	SB 895

TABLE OF SECTIONS AFFECTED BY 2002 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
400.9.525	Amended	SB 895	407.850	Amended	HB 2008
400.9.525	Amended	SB 1078	407.860	Amended	HB 1348
400.9.602	Amended	SB 895	407.860	Amended	HB 2008
400.9.608	Amended	SB 895	407.870	Amended	HB 1348
400.9.611	Amended	SB 895	407.870	Amended	HB 2008
400.9.613	Amended	SB 895	407.890	Repealed	HB 1348
400.9.615	Amended	SB 895	407.890	Repealed	HB 2008
400.9.625	Amended	SB 895	407.892	Repealed	HB 1348
400.9.710	Amended	SB 895	407.892	Repealed	HB 2008
407.432	Amended	SB 895	407.893	Repealed	HB 1348
407.433	New	SB 895	407.893	Repealed	HB 2008
407.472	Amended	SB 712	408.083	Amended	SB 895
407.592	Amended	HB 1348	408.140	Amended	SB 895
407.610	Amended	HB 1041	408.170	Amended	SB 895
407.750	Repealed	HB 1348	408.320	Amended	SB 895
407.750	Repealed	HB 2008	408.500	Amended	SB 884
407.751	Repealed	HB 1348	408.505	New	SB 884
407.751	Repealed	HB 2008	408.506	New	SB 884
407.752	Repealed	HB 1348	408.510	Amended	SB 895
407.752	Repealed	HB 2008	408.556	Amended	SB 895
407.850	Amended	HB 1348	408.557	Amended	SB 895

**TABLE OF SECTIONS AFFECTED
BY
2002 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
409.204	Amended	SB 895		414.365	New	SB 984
409.402	Amended	SB 895		417.210	Amended	SB 895
413.005	Amended	SB 1071		419.010	Amended	SB 1243
413.015	Amended	SB 1071		419.020	Amended	SB 1243
413.055	Amended	SB 1071		419.030	Amended	SB 1243
413.065	Amended	SB 1071		419.040	Amended	SB 1243
413.075	Amended	SB 1071		436.300	New	HB 1403
413.085	Amended	SB 1071		436.303	New	HB 1403
413.115	Amended	SB 1071		436.306	New	HB 1403
413.125	Amended	SB 1071		436.309	New	HB 1403
413.135	Amended	SB 1071		436.312	New	HB 1403
413.145	Amended	SB 1071		436.315	New	HB 1403
413.155	Amended	SB 1071		436.318	New	HB 1403
413.165	Amended	SB 1071		436.321	New	HB 1403
413.225	Amended	SB 1071		436.324	New	HB 1403
413.227	Amended	SB 1071		436.327	New	HB 1403
413.229	Amended	SB 1071		436.330	New	HB 1403
414.032	Amended	HB 1348		436.333	New	HB 1403
414.032	Amended	SB 984		436.336	New	HB 1403
414.043	New	HB 1348		443.415	Amended	HB 1375
414.043	New	SB 984		443.415	Amended	SB 729

TABLE OF SECTIONS AFFECTED BY 2002 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
447.532	Amended	SB 1248	454.516	Amended	SB 895
447.620	Amended	HB 1634	454.606	Amended	SB 923
447.620	Amended	SB 1086	454.609	Amended	SB 923
447.622	Amended	HB 1634	454.615	Amended	SB 923
447.622	Amended	SB 1086	454.618	Amended	SB 923
447.625	Amended	HB 1634	454.627	Amended	SB 923
447.625	Amended	SB 1086	454.700	Amended	SB 923
447.632	Amended	HB 1634	455.027	Amended	HB 1814
447.632	Amended	SB 1086	455.060	Amended	HB 1814
447.636	Amended	HB 1634	455.067	Amended	HB 1814
447.636	Amended	SB 1086	455.075	Amended	HB 1814
447.638	Amended	HB 1634	455.504	Amended	HB 1814
447.638	Amended	SB 1086	455.508	Repealed	HB 1814
447.640	Amended	HB 1634	469.411	Amended	HB 1151
447.640	Amended	SB 1086	469.411	Amended	SB 742
447.721	Amended	SB 992	470.010	Amended	SB 1248
452.402	Amended	SB 923	470.020	Amended	SB 1248
453.030	Amended	HB 1443	470.030	Amended	SB 1248
453.030	Amended	SB 923	470.040	Repealed	SB 1248
454.507	Amended	SB 895	470.050	Repealed	SB 1248
454.516	Amended	HB 2008	470.060	Amended	SB 1248

TABLE OF SECTIONS AFFECTED BY 2002 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
470.070	Amended	SB 1248	470.350	Repealed	SB 1248
470.080	Amended	SB 1248	473.097	Amended	HB 1537
470.130	Amended	SB 1248	473.697	Amended	SB 712
470.150	Amended	SB 1248	476.517	Amended	HB 1455
470.190	Repealed	SB 1248	476.750	Amended	HB 1783
470.200	Amended	SB 1248	476.753	Amended	HB 1715
470.210	Amended	SB 1248	476.760	Amended	HB 1783
470.220	Amended	SB 1248	476.763	Amended	HB 1783
470.230	Repealed	SB 1248	488.005	Amended	HB 1659
470.240	Repealed	SB 1248	488.610	Amended	HB 1814
470.250	Repealed	SB 1248	490.620	Amended	SB 712
470.260	Repealed	SB 1248	511.360	Amended	HB 1768
470.270	Amended	SB 810	516.097	Amended	SB 840
470.270	Amended	SB 1248	525.070	Amended	SB 895
470.280	Repealed	SB 1248	535.081	Amended	SB 932
470.290	Repealed	SB 1248	536.035	Amended	SB 812
470.300	Repealed	SB 1248	537.053	Amended	HB 1532
470.310	Repealed	SB 1248	541.155	New	SB 895
470.320	Repealed	SB 1248	542.301	Amended	SB 1248
470.330	Repealed	SB 1248	542.400	Amended	SB 712
470.340	Repealed	SB 1248	542.402	Amended	SB 712

**TABLE OF SECTIONS AFFECTED
BY
2002 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
542.404	Amended	SB 712	566.090	Amended	SB 969
542.406	Amended	SB 712	566.111	New	SB 969
542.408	Amended	SB 712	566.135	New	HB 1756
542.410	Amended	SB 712	566.145	New	SB 969
542.412	Amended	SB 712	566.151	New	SB 969
542.414	Amended	SB 712	567.020	Amended	HB 1756
542.416	Amended	SB 712	569.072	New	SB 712
542.418	Amended	SB 712	569.095	Amended	HB 1888
542.420	Amended	SB 712	569.097	Amended	HB 1888
542.422	Amended	SB 712	569.099	Amended	HB 1888
547.170	Amended	SB 758	570.010	Amended	HB 1888
547.170	Amended	SB 969	570.020	Amended	HB 1888
547.170	Vetoed	SB 1070	570.020	Amended	HB 2120
556.036	Amended	HB 1037	570.030	Amended	HB 1888
556.036	Amended	SB 650	570.030	Amended	SB 712
556.061	Amended	SB 969	570.040	Amended	HB 1888
565.200	New	SB 969	570.080	Amended	HB 1888
565.225	Amended	SB 969	570.085	Amended	HB 1888
565.252	New	SB 969	570.090	Amended	HB 1888
565.253	Amended	SB 969	570.120	Amended	HB 1888
566.010	Amended	SB 969	570.123	Amended	HB 1888

**TABLE OF SECTIONS AFFECTED
BY
2002 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
570.125	Amended	HB 1888	589.400	Amended	SB 758
570.130	Amended	HB 1888	589.400	Amended	SB 969
570.130	Amended	SB 895	589.400	Vetoed	SB 1070
570.210	Amended	HB 1888	589.410	Amended	SB 758
570.300	Amended	HB 1888	589.410	Amended	SB 969
571.020	Amended	SB 712	589.410	Vetoed	SB 1070
574.105	Amended	SB 712	610.021	Amended	SB 712
574.115	Amended	SB 712	620.012	New	HB 1150
575.010	Amended	HB 1270	620.467	Amended	HB 1041
575.060	Amended	SB 895	620.1355	Amended	SB 959
575.080	Amended	SB 712	621.040	New	SB 1202
575.145	New	HB 1270	622.555	New	HB 1270
575.150	Amended	HB 1270	632.483	Amended	SB 969
576.080	New	SB 712	640.100	Vetoed	HB 1748
577.041	Amended	HB 2062	640.100	Amended	SB 984
578.008	Amended	SB 712	640.169	Repealed	HB 2078
578.150	Amended	HB 1888	640.170	Repealed	HB 2078
578.377	Amended	HB 1888	640.172	Repealed	HB 2078
578.379	Amended	HB 1888	640.175	Repealed	HB 2078
578.381	Amended	HB 1888	640.177	Repealed	HB 2078
578.385	Amended	HB 1888	640.179	Repealed	HB 2078

**TABLE OF SECTIONS AFFECTED
BY
2002 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
640.180	Repealed	HB 2078		644.021	Amended	SB 708
640.182	Repealed	HB 2078		644.036	Vetoed	HB 1748
640.185	Repealed	HB 2078		644.036	Amended	SB 984
640.195	Repealed	HB 2078		644.051	Vetoed	HB 1748
640.200	Repealed	HB 2078		644.051	Amended	SB 984
640.203	Repealed	HB 2078		644.052	Vetoed	HB 1748
640.205	Repealed	HB 2078		644.052	Amended	SB 984
640.207	Repealed	HB 2078		644.578	Vetoed	HB 1748
640.210	Repealed	HB 2078		644.578	New	SB 984
640.212	Repealed	HB 2078		644.579	Vetoed	HB 1748
640.215	Repealed	HB 2078		644.579	New	SB 984
640.218	Repealed	HB 2078		644.580	Vetoed	HB 1748
640.620	Vetoed	HB 1748		644.580	New	SB 984
640.651	Amended	SB 810		650.277	New	SB 795
640.653	Amended	SB 810		650.390	New	SB 795
640.825	Vetoed	HB 1748		650.393	New	SB 795
640.825	New	SB 984		650.396	New	SB 795
643.220	Amended	SB 984		650.399	New	SB 795
643.220	Amended	SB 1163		650.402	New	SB 795
644.016	Vetoed	HB 1748		650.405	New	SB 795
644.016	Amended	SB 984		650.408	New	SB 795

**TABLE OF SECTIONS AFFECTED
BY
2002 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
650.411	New	SB 795		700.355	Amended	SB 895
660.100	Amended	SB 810		700.360	Amended	HB 2008
660.105	Amended	SB 810		700.360	Amended	SB 895
660.110	Amended	SB 810		700.365	Amended	HB 2008
660.115	Amended	SB 810		700.365	Amended	SB 895
660.120	Repealed	SB 810		700.370	Amended	HB 2008
660.122	Amended	SB 810		700.370	Amended	SB 895
660.135	Amended	SB 810		700.380	Amended	HB 2008
660.136	Amended	SB 810		700.380	Amended	SB 895
660.285	Amended	SB 810		700.390	Repealed	HB 2008
660.690	New	SB 810		701.034	Vetoed	HB 1748
700.350	Amended	HB 2008		701.302	Amended	HB 1953
700.350	Amended	SB 895		701.381	New	HB 1348
700.355	Amended	HB 2008		701.383	New	HB 1348

LAWS of MISSOURI

**Passed during the
First Extraordinary Session**

**NINETY-FIRST
GENERAL ASSEMBLY**

2001

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HB 3 [CCS SS SCS HS HCS HB 3]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes the Pharmaceutical Investment Program for Seniors to provide prescription drug assistance to seniors.

AN ACT to repeal sections 135.095 and 208.151, RSMo, relating to the Missouri Senior Rx program, and to enact in lieu thereof ten new sections relating to the same subject, with a reauthorization date, penalty provisions, and an emergency clause.

SECTION

- A. Enacting clause.
- 135.095. Maximum amount, qualifications, phase-out of credit based on income, expiration date.
- 208.151. Medical assistance, persons eligible — rulemaking authority.
- 208.550. Definitions.
- 208.553. Commission for the Missouri Senior Rx program established, members, terms, duties, expenses.
- 208.556. Missouri Senior Rx program established, administration, drug benefits, eligibility, applications — deductibles, coinsurance, and enrollment fees — quarterly reports — rulemaking authority — penalty for false statements.
- 208.559. Enrollment periods.
- 208.562. Use of generic drugs — reimbursement of pharmacies.
- 208.565. Rebates, amount, use of.
- 208.568. Missouri Senior Rx program fund created, administration, use of funds.
- 208.571. Missouri Senior Rx clearinghouse established, duties, administration.
- B. Emergency clause.
- C. Reauthorization clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 135.095 and 208.151, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 135.095, 208.151, 208.550, 208.553, 208.556, 208.559, 208.562, 208.565, 208.568 and 208.571, to read as follows:

135.095. MAXIMUM AMOUNT, QUALIFICATIONS, PHASE-OUT OF CREDIT BASED ON INCOME, EXPIRATION DATE. — For all tax years beginning on or after January 1, 1999, but before [January 1, 2005] **December 31, 2001**, a resident individual who has attained sixty-five years of age on or before the last day of the tax year shall be allowed, for the purpose of offsetting the cost of legend drugs, a maximum credit against the tax otherwise due pursuant to chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, of two hundred dollars. An individual shall be entitled to the maximum credit allowed by this section if the individual has a Missouri adjusted gross income of fifteen thousand dollars or less; provided that, no individual who receives full reimbursement for the cost of legend drugs from Medicare or Medicaid, or who is a resident of a local, state or federally funded facility shall qualify for the credit allowed pursuant to this section. If an individual's Missouri adjusted gross income is greater than fifteen thousand dollars, such individual shall be entitled to a credit equal to the greater of zero or the maximum credit allowed by this section reduced by two dollars for every hundred dollars such individual's income exceeds fifteen thousand dollars. The credit shall be claimed as prescribed by the director of the department of revenue. Such credit shall be considered an overpayment of tax and shall be refundable even if the amount of the credit exceeds an individual's tax liability.

208.151. MEDICAL ASSISTANCE, PERSONS ELIGIBLE — RULEMAKING AUTHORITY. —
1. For the purpose of paying medical assistance on behalf of needy persons and to comply with Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C.

Section 301 et seq.) as amended, the following needy persons shall be eligible to receive medical assistance to the extent and in the manner hereinafter provided:

- (1) All recipients of state supplemental payments for the aged, blind and disabled;
 - (2) All recipients of aid to families with dependent children benefits, including all persons under nineteen years of age who would be classified as dependent children except for the requirements of subdivision (1) of subsection 1 of section 208.040;
 - (3) All recipients of blind pension benefits;
 - (4) All persons who would be determined to be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits under the eligibility standards in effect December 31, 1973, or less restrictive standards as established by rule of the division of family services, who are sixty-five years of age or over and are patients in state institutions for mental diseases or tuberculosis;
 - (5) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children except for the requirements of subdivision (2) of subsection 1 of section 208.040, and who are residing in an intermediate care facility, or receiving active treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as amended;
 - (6) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children benefits except for the requirement of deprivation of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;
 - (7) All persons eligible to receive nursing care benefits;
 - (8) All recipients of family foster home or nonprofit private child-care institution care, subsidized adoption benefits and parental school care wherein state funds are used as partial or full payment for such care;
 - (9) All persons who were recipients of old age assistance benefits, aid to the permanently and totally disabled, or aid to the blind benefits on December 31, 1973, and who continue to meet the eligibility requirements, except income, for these assistance categories, but who are no longer receiving such benefits because of the implementation of Title XVI of the federal Social Security Act, as amended;
 - (10) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child in the home;
 - (11) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child who is deprived of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;
 - (12) Pregnant women or infants under one year of age, or both, whose family income does not exceed an income eligibility standard equal to one hundred eighty-five percent of the federal poverty level as established and amended by the federal Department of Health and Human Services, or its successor agency;
 - (13) Children who have attained one year of age but have not attained six years of age who are eligible for medical assistance under 6401 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989). The division of family services shall use an income eligibility standard equal to one hundred thirty-three percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency;
 - (14) Children who have attained six years of age but have not attained nineteen years of age. For children who have attained six years of age but have not attained nineteen years of age, the division of family services shall use an income assessment methodology which provides for eligibility when family income is equal to or less than equal to one hundred percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency. As necessary to provide Medicaid coverage under this subdivision, the department of social services may revise the state Medicaid plan to extend coverage under 42 U.S.C. 1396a (a)(10)(A)(i)(III) to children who have attained six years of age but have not attained nineteen years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. 1396d using a more
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liberal income assessment methodology as authorized by paragraph (2) of subsection (r) of 42 U.S.C. 1396a;

(15) The following children with family income which does not exceed two hundred percent of the federal poverty guideline for the applicable family size:

(a) Infants who have not attained one year of age with family income greater than one hundred eighty-five percent of the federal poverty guideline for the applicable family size;

(b) Children who have attained one year of age but have not attained six years of age with family income greater than one hundred thirty-three percent of the federal poverty guideline for the applicable family size; and

(c) Children who have attained six years of age but have not attained nineteen years of age with family income greater than one hundred percent of the federal poverty guideline for the applicable family size. Coverage under this subdivision shall be subject to the receipt of notification by the director of the department of social services and the revisor of statutes of approval from the secretary of the U.S. Department of Health and Human Services of applications for waivers of federal requirements necessary to promulgate regulations to implement this subdivision. The director of the department of social services shall apply for such waivers. The regulations may provide for a basic primary and preventive health care services package, not to include all medical services covered by section 208.152, and may also establish co-payment, coinsurance, deductible, or premium requirements for medical assistance under this subdivision. Eligibility for medical assistance under this subdivision shall be available only to those infants and children who do not have or have not been eligible for employer-subsidized health care insurance coverage for the six months prior to application for medical assistance. Children are eligible for employer-subsidized coverage through either parent, including the noncustodial parent. The division of family services may establish a resource eligibility standard in assessing eligibility for persons under this subdivision. The division of medical services shall define the amount and scope of benefits which are available to individuals under this subdivision in accordance with the requirement of federal law and regulations. Coverage under this subdivision shall be subject to appropriation to provide services approved under the provisions of this subdivision;

(16) The division of family services shall not establish a resource eligibility standard in assessing eligibility for persons under subdivision (12), (13) or (14) of this subsection. The division of medical services shall define the amount and scope of benefits which are available to individuals eligible under each of the subdivisions (12), (13), and (14) of this subsection, in accordance with the requirements of federal law and regulations promulgated thereunder except that the scope of benefits shall include case management services;

(17) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal care shall be made available to pregnant women during a period of presumptive eligibility pursuant to 42 U.S.C. Section 1396r-1, as amended;

(18) A child born to a woman eligible for and receiving medical assistance under this section on the date of the child's birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of time determined in accordance with applicable federal and state law and regulations so long as the child is a member of the woman's household and either the woman remains eligible for such assistance or for children born on or after January 1, 1991, the woman would remain eligible for such assistance if she were still pregnant. Upon notification of such child's birth, the division of family services shall assign a medical assistance eligibility identification number to the child so that claims may be submitted and paid under such child's identification number;

(19) Pregnant women and children eligible for medical assistance pursuant to subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for medical assistance benefits be required to apply for aid to families with dependent children. The division of family services shall utilize an application for eligibility for such persons which eliminates information

requirements other than those necessary to apply for medical assistance. The division shall provide such application forms to applicants whose preliminary income information indicates that they are ineligible for aid to families with dependent children. Applicants for medical assistance benefits under subdivision (12), (13) or (14) shall be informed of the aid to families with dependent children program and that they are entitled to apply for such benefits. Any forms utilized by the division of family services for assessing eligibility under this chapter shall be as simple as practicable;

(20) Subject to appropriations necessary to recruit and train such staff, the division of family services shall provide one or more full-time, permanent case workers to process applications for medical assistance at the site of a health care provider, if the health care provider requests the placement of such case workers and reimburses the division for the expenses including but not limited to salaries, benefits, travel, training, telephone, supplies, and equipment, of such case workers. The division may provide a health care provider with a part-time or temporary case worker at the site of a health care provider if the health care provider requests the placement of such a case worker and reimburses the division for the expenses, including but not limited to the salary, benefits, travel, training, telephone, supplies, and equipment, of such a case worker. The division may seek to employ such case workers who are otherwise qualified for such positions and who are current or former welfare recipients. The division may consider training such current or former welfare recipients as case workers for this program;

(21) Pregnant women who are eligible for, have applied for and have received medical assistance under subdivision (2), (10), (11) or (12) of this subsection shall continue to be considered eligible for all pregnancy-related and postpartum medical assistance provided under section 208.152 until the end of the sixty-day period beginning on the last day of their pregnancy;

(22) Case management services for pregnant women and young children at risk shall be a covered service. To the greatest extent possible, and in compliance with federal law and regulations, the department of health and senior services shall provide case management services to pregnant women by contract or agreement with the department of social services through local health departments organized under the provisions of chapter 192, RSMo, or chapter 205, RSMo, or a city health department operated under a city charter or a combined city-county health department or other department of health and senior services designees. To the greatest extent possible the department of social services and the department of health and senior services shall mutually coordinate all services for pregnant women and children with the crippled children's program, the prevention of mental retardation program and the prenatal care program administered by the department of health and senior services. The department of social services shall by regulation establish the methodology for reimbursement for case management services provided by the department of health and senior services. For purposes of this section, the term "case management" shall mean those activities of local public health personnel to identify prospective Medicaid-eligible high-risk mothers and enroll them in the state's Medicaid program, refer them to local physicians or local health departments who provide prenatal care under physician protocol and who participate in the Medicaid program for prenatal care and to ensure that said high-risk mothers receive support from all private and public programs for which they are eligible and shall not include involvement in any Medicaid prepaid, case-managed programs;

(23) By January 1, 1988, the department of social services and the department of health and senior services shall study all significant aspects of presumptive eligibility for pregnant women and submit a joint report on the subject, including projected costs and the time needed for implementation, to the general assembly. The department of social services, at the direction of the general assembly, may implement presumptive eligibility by regulation promulgated pursuant to chapter 207, RSMo;

(24) All recipients who would be eligible for aid to families with dependent children benefits except for the requirements of paragraph (d) of subdivision (1) of section 208.150;

(25) All persons who would be determined to be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits, under the eligibility standards in effect December 31, 1973[, or those supplemental security income recipients who would be determined eligible for general relief benefits under the eligibility standards in effect December 31, 1973, except income; or less restrictive standards as established by rule of the division of family services]; **except that, on or after July 1, 2002, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), shall be used to raise the income limit to eighty percent of the federal poverty level and, as of July 1, 2003, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), shall be used to raise the income limit to ninety percent of the federal poverty level and, as of July 1, 2004, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), shall be used to raise the income limit to one hundred percent of the federal poverty level.** If federal law or regulation authorizes the division of family services to, by rule, exclude the income or resources of a parent or parents of a person under the age of eighteen and such exclusion of income or resources can be limited to such parent or parents, then notwithstanding the provisions of section 208.010:

(a) The division may by rule exclude such income or resources in determining such person's eligibility for permanent and total disability benefits; and

(b) Eligibility standards for permanent and total disability benefits shall not be limited by age;

(26) Within thirty days of the effective date of an initial appropriation authorizing medical assistance on behalf of "medically needy" individuals for whom federal reimbursement is available under 42 U.S.C. 1396a (a)(10)(c), the department of social services shall submit an amendment to the Medicaid state plan to provide medical assistance on behalf of, at a minimum, an individual described in subclause (I) or (II) of clause 42 U.S.C. 1396a (a)(10)(C)(ii);

(27) Persons who have been diagnosed with breast or cervical cancer and who are eligible for coverage pursuant to 42 U.S.C. 1396a (a)(10)(A)(ii)(XVIII). Such persons shall be eligible during a period of presumptive eligibility in accordance with 42 U.S.C. 1396r-1.

2. Rules and regulations to implement this section shall be promulgated in accordance with section 431.064, RSMo, and chapter 536, RSMo. [No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.**

3. After December 31, 1973, and before April 1, 1990, any family eligible for assistance pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the last six months immediately preceding the month in which such family became ineligible for such assistance because of increased income from employment shall, while a member of such family is employed, remain eligible for medical assistance for four calendar months following the month in which such family would otherwise be determined to be ineligible for such assistance because of income and resource limitation. After April 1, 1990, any family receiving aid pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the six months immediately preceding the month in which such family becomes ineligible for such aid, because of hours of employment or income from employment of the caretaker relative, shall remain eligible for medical assistance for six calendar months following the month of such ineligibility as long as such family includes a child as provided in 42 U.S.C. 1396r-6. Each family which has received such medical

assistance during the entire six-month period described in this section and which meets reporting requirements and income tests established by the division and continues to include a child as provided in 42 U.S.C. 1396r-6 shall receive medical assistance without fee for an additional six months. The division of medical services may provide by rule the scope of medical assistance coverage to be granted to such families.

4. For purposes of section 1902(1), (10) of Title XIX of the federal Social Security Act, as amended, any individual who, for the month of August, 1972, was eligible for or was receiving aid or assistance pursuant to the provisions of Titles I, X, XIV, or Part A of Title IV of such act and who, for such month, was entitled to monthly insurance benefits under Title II of such act, shall be deemed to be eligible for such aid or assistance for such month thereafter prior to October, 1974, if such individual would have been eligible for such aid or assistance for such month had the increase in monthly insurance benefits under Title II of such act resulting from enactment of Public Law 92-336 amendments to the federal Social Security Act (42 U.S.C. 301 et seq.), as amended, not been applicable to such individual.

5. When any individual has been determined to be eligible for medical assistance, such medical assistance will be made available to him for care and services furnished in or after the third month before the month in which he made application for such assistance if such individual was, or upon application would have been, eligible for such assistance at the time such care and services were furnished; provided, further, that such medical expenses remain unpaid.

6. **The department of social services may apply to the federal Department of Health and Human Services for a Medicaid waiver amendment to the section 1115 demonstration waiver or for any additional Medicaid waivers necessary and desirable to implement the increased income limit, as authorized in subdivision (25) of subsection 1 of section 208.151.**

208.550. DEFINITIONS. — As used in sections 208.550 to 208.571, the following terms mean:

(1) "Clearinghouse", the Missouri Senior Rx clearinghouse established in section 208.571;

(2) "Commission", the commission for the Missouri Senior Rx program established in section 208.553;

(3) "Direct seller", any person, partnership, corporation, institution or entity engaged in the selling of pharmaceutical products directly to consumers in this state;

(4) "Distributor", a private entity under contract with the original labeler or holder of the national code number to manufacture, package or market the covered prescription drug;

(5) "Division", the division of aging within the department of health and senior services;

(6) "FDA", the Food and Drug Administration of the Public Health Services of the Department of Health and Human Services;

(7) "Generic drug", a chemically equivalent copy of a brand-name drug for which the patent has expired. Drug formulations must be of identical composition with respect to the active ingredient and must meet official standards of identity, purity, and quality of active ingredient as approved by the Food and Drug Administration;

(8) "Household income", the amount of income as defined in section 135.010, RSMo. For purposes of this section, household income shall be the household income of the applicant for the previous calendar year;

(9) "Innovator multiple-source drugs", a multiple- source drug that was originally marketed under a new drug application approved by the FDA. The term includes:

(a) Covered prescription drugs approved under Product License Approval (PLA), Establishment Licenses Approval (ELA), or Antibiotic Drug Approval (ADA); and

(b) A covered prescription drug marketed by a cross-licensed producer or distributor under the Approved New Drug Application (ANDA) when the drug product meets this definition;

(10) "Manufacturer", shall include:

(a) An entity which is engaged in any of the following:

a. The production, preparation, propagation, compounding, conversion or processing of prescription drug products:

(i) Directly or indirectly by extraction from substances of natural origin;

(ii) Independently by means of chemical synthesis; or

(iii) By a combination of extraction and chemical synthesis;

b. The packaging, repackaging, labeling or relabeling, or distribution of prescription drug products;

(b) The entity holding legal title to or possession of the national drug code number for the covered prescription drug;

(c) The term does not include a wholesale distributor of drugs, drugstore chain organization or retail pharmacy licensed by the state;

(11) "Medicaid", the program for medical assistance established pursuant to Title XIX of the federal Social Security Act and administered by the department of social services;

(12) "Missouri resident", an individual who establishes residence for a period of twelve months in a settled or permanent home or domicile within the state of Missouri with the intention of remaining in this state. An individual is a resident of this state until the individual establishes a permanent residence outside this state;

(13) "National drug code number", the identifying drug number maintained by the FDA. The complete eleven- digit number must include the labeler code, product code and package size code;

(14) "New drug", a covered prescription drug approved as a new drug under section 201(p) of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 21 U.S.C. S 321(p));

(15) "Prescription drug", a drug which may be dispensed only upon prescription by an authorized prescriber and which is approved for safety and effectiveness as a prescription drug under section 505 or 507 of the Federal Food, Drug and Cosmetic Act;

(16) "Program", the Missouri Senior Rx program established pursuant to section 208.556;

(17) "Single-source drugs", legend drug products for which the FDA has not approved on Abbreviated New Drug Application (ANDA);

(18) "Third-party administrator", a private party contracted to administer the Missouri Senior Rx program established in section 208.556, with duties that may include, but shall not be limited to, devising applications, enrolling members, administration of prescription drug benefits, and implementation of cost- control measures, including such programs as disease management programs, early refill edits, and fraud and abuse detection system and auditing programs;

(19) "Unit", a drug unit in the lowest identifiable amount, such as tablet or capsule for solid dosage forms, milliliter for liquid forms and gram for ointments or creams. The manufacturer shall specify the unit for each dosage form and strength of each covered prescription drug in accordance with the instructions developed by the Center for Medicare and Medicaid Services (CMS) for purposes of the Federal Medicaid Rebate Program under section 1927 of Title XIX of the Social Security Act (49 Stat. 620, 42 U.S.C. section 301 et seq.);

(20) "Wholesaler", any person, partnership, corporation, institution or entity to which the manufacturer sells the covered prescription drug, including a pharmacy or chain of pharmacies.

208.553. COMMISSION FOR THE MISSOURI SENIOR RX PROGRAM ESTABLISHED, MEMBERS, TERMS, DUTIES, EXPENSES. — 1. There is hereby established the "Commission for the Missouri Senior Rx Program" within the division of aging in the department of health and senior services to govern the operation of the Missouri Senior Rx program established in section 208.556. The commission shall consist of the following fifteen members:

- (1) The lieutenant governor, in his or her capacity as advocate for the elderly;
- (2) Two members of the senate, with one member from the majority party appointed by the president pro tem of the senate and one member of the minority party appointed by the president pro tem of the senate with the concurrence of the minority floor leader of the senate;
- (3) Two members of the house of representatives, with one member from the majority party appointed by the speaker of the house of representatives and one member of the minority party appointed by the speaker of the house of representatives with the concurrence of the minority floor leader of the house of representatives;
- (4) The director of the division of medical services in the department of social services;
- (5) The director of the division of aging in the department of health and senior services;
- (6) The chairperson of the commission on special health, psychological and social needs of minority older individuals;
- (7) The following four members appointed by the governor with the advice and consent of the senate:
 - (a) A pharmacist;
 - (b) A physician;
 - (c) A representative from a senior advocacy group; and
 - (d) A representative from an area agency on aging;
- (8) A representative from the pharmaceutical manufacturers industry as a nonvoting member appointed by the president pro tem of the senate and the speaker of the house of representatives;
- (9) One public member appointed by the president pro tem of the senate; and
- (10) One public member appointed by the speaker of the house of representatives. In making the initial appointment to the committee, the governor, president pro tem, and speaker shall stagger the terms of the appointees so that four members serve initial terms of two years, four members serve initial terms of three years, four members serve initial terms of four years and one member serves an initial term of one year. All members appointed thereafter shall serve three-year terms. All members shall be eligible for reappointment. The commission shall elect a chair and may employ an executive director and such professional, clerical, and research personnel as may be necessary to assist in the performance of the commission's duties.

2. Recognizing the unique medical needs of the senior African American population, the president pro tem of the senate, speaker of the house of representatives and governor will collaborate to ensure that there is adequate minority representation among legislative members and other members of the commission.

3. The commission:

- (1) May establish guidelines, policies, and procedures necessary to establish the Missouri Senior Rx program;
 - (2) Shall hold quarterly meetings within fifteen days of the submission of each quarterly report required in subsection 16 of section 208.556, and other meetings as deemed necessary;
 - (3) May establish guidelines and collect information and data to promote and facilitate the program;
-

(4) May, after implementation of the program, evaluate and make recommendations to the governor and general assembly regarding the creation of a senior prescription drug benefit available to seniors who are not eligible for the program due to income that does not meet the program requirements;

(5) Shall have rulemaking authority for the implementation and administration of the program;

(6) The commission shall utilize the definition of "generic drug" as defined pursuant to section 208.550 as a general guideline and the commission may revise such definition, by rule, for the purpose of maximizing the use of generic drugs in the program.

4. The members of the commission shall receive no compensation for their service on the commission, but shall be reimbursed for ordinary and necessary expenses incurred in the performance of their duties as a member of the commission.

208.556. MISSOURI SENIOR RX PROGRAM ESTABLISHED, ADMINISTRATION, DRUG BENEFITS, ELIGIBILITY, APPLICATIONS — DEDUCTIBLES, COINSURANCE, AND ENROLLMENT FEES — QUARTERLY REPORTS — RULEMAKING AUTHORITY — PENALTY FOR FALSE STATEMENTS. — 1. There is hereby established the "Missouri Senior Rx Program" within the division of aging in the department of health and senior services to help defray the costs of prescription drugs for elderly Missouri residents. The division shall provide technical assistance to the commission for the administration and implementation of the program. The commission shall solicit requests for proposals from private contractors for the third-party administration of the program; except that, the commission shall either administer the rebate program established in section 208.565 or contract with the division of medical services for such rebate program. The program shall be governed by the commission for the Missouri Senior Rx program established in section 208.553.

2. Administration of the program shall include, but not be limited to, devising program applications, enrolling participants, administration of prescription drug benefits, and implementation of cost-control measures, including such strategies as disease management programs, early refill edits, drug utilization review which includes retroactive approval systems, fraud and abuse detection system, and auditing programs. The commission shall select a responsive, cost-effective bid from the requests for proposal; however, if no responsive, cost-effective bids are received, the program shall be administered collaboratively by the department of health and senior services and the department of social services.

3. Prescription drug benefits shall not include coverage of the following drugs or classes of drugs, or their medical uses:

- (1) Agents when used for anorexia or weight gain;
- (2) Agents when used to promote fertility;
- (3) Agents when used for cosmetic purposes or hair growth;
- (4) Agents when used for the symptomatic relief of cough and colds;
- (5) Agents when used to promote smoking cessation;
- (6) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations;
- (7) Nonprescription drugs;
- (8) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee;
- (9) Barbiturates;
- (10) Benzodiazepines.

4. Subject to appropriations, available funds and other cost control measures authorized herein, any Missouri resident sixty-five years of age or older, who has not had access to employer-subsidized health care insurance that offers a pharmacy benefit for six

months prior to application, who is not currently ineligible pursuant to subsection 8 of this section:

(1) Who has a household income at or below twelve thousand dollars for an individual or at or below seventeen thousand dollars for a married couple is eligible to participate in the program; or

(2) Who has a household income at or below seventeen thousand dollars for an individual or at or below twenty-three thousand dollars for a married couple is eligible to participate in the program.

(3) However, the commission may restrict income eligibility limits as a last resort to obtain program cost control.

5. The commission shall have the authority to set and adjust coinsurance, deductibles and enrollment fees at different amounts pursuant to subdivisions (1) and (2) of subsection 4 of this section as a cost containment measure.

6. Any person who has retired and received employer-sponsored health insurance while employed, but whose employer does not offer health insurance coverage to retirees shall not be subject to the six-month uninsured requirement.

7. The program established in this section is not an entitlement. Benefits shall be limited to the level supported by the moneys explicitly appropriated pursuant to this section. If in any fiscal year the commission projects that the total cost of the program will exceed the amount currently appropriated for the program, the commission may direct the third-party administrator to implement cost-control measures to reduce the projected cost. Such cost-control measures may include, but are not limited to, increasing the enrollment fees in subsection 12 of this section, the deductibles in subsection 11 of this section, and the coinsurance outlined in subsection 12 of this section. The Missouri Senior Rx program is a payer of last resort. If the federal government establishes a pharmaceutical assistance program that covers program eligible seniors under Medicare or another program, the Missouri Senior Rx program shall cover only eligible costs not covered by the federal program.

8. Any person who is receiving Medicaid benefits shall not be eligible to participate in the program. The Missouri Senior Rx program is a payer of last resort. If a senior has coverage for pharmaceutical benefits through a health benefit plan, as defined in section 376.1350, RSMo, including a Medicare supplement or Medicare+Choice plan, or through a self-funded employee benefit plan, the Missouri Senior Rx program shall pay only for eligible costs not provided by such coverage. Individuals who have benefits with an actuarial value greater than or equal to the benefits in the program are not eligible for the program.

9. Applicants for the program shall submit an annual application to the division, or the division's designee, that attests to the age, residence, any third-party health insurance coverage, previous year prescription drug costs, annual household income for an individual or couple, if married, and any other information the commission deems necessary. The third-party administrator shall prescribe the form of the application for enrollment in the program, which shall be approved by the division. The commission shall develop and implement a means test by which applicants must demonstrate that they meet the income requirement of the program. Information provided by applicants and enrollees pursuant to sections 208.550 to 208.571 is confidential and shall not be disclosed by the commission, the division or any other state agency or contractor therein in any form.

10. Nothing in this section shall be construed as requiring an applicant to accept Medicaid benefits in lieu of participation in this program.

11. The following deductibles shall apply to enrollees in the program:

(1) For an individual with a household income at or below twelve thousand dollars, the deductible shall, in the initial year, not be less than two hundred fifty dollars;

(2) For a married couple with a household income at or below seventeen thousand dollars, the deductible shall, in the initial year, not be less than two hundred fifty dollars for each person;

(3) For an individual with a household income between twelve thousand one dollars and seventeen thousand dollars, the deductible shall, in the initial year, not be less than five hundred dollars; and

(4) For a married couple with a household income between seventeen thousand one dollars and twenty-three thousand dollars, the deductible shall, in the initial year, not be less than five hundred dollars for each person.

12. For prescription drugs, enrollees shall pay a forty percent coinsurance. The division may implement a higher coinsurance at the recommendation of the commission. Such coinsurance may be adjusted annually by the commission and shall be used to reduce the state's cost for the program. In addition, each enrollee with an annual household income at or below twelve thousand dollars for an individual or at or below seventeen thousand dollars for a married couple shall pay, in the initial year, not less than an annual twenty-five dollar enrollment fee and each enrollee with a household income between twelve thousand one dollars and seventeen thousand dollars for an individual or at or below between seventeen thousand one dollars and twenty-three thousand dollars for a married couple shall pay, in the initial year, not less than an annual thirty-five dollar enrollment fee to offset the administrative costs of the program.

13. The total annual expenditures for each enrollee under this program may be up to but shall not exceed five thousand dollars for each participant.

14. In providing program benefits, the department may enter into a contract with a private individual, corporation or agency to implement the program.

15. The division shall utilize area agencies on aging, senior citizens centers, and other senior focused entities to provide outreach, enrollment referral assistance, and education services to potentially eligible seniors for the Missouri Senior Rx program. The division and third-party administrators shall be responsible for informing eligible seniors on the availability of and providing information about pharmaceutical company benefits which may be applicable.

16. The commission shall submit quarterly reports to the governor, the senate appropriations committee, the house of representatives budget committee, the speaker of the house of representatives, the president pro tem of the senate, and the division that include:

- (1) Quantified data as to the number of program applicants;
- (2) An estimate of whether the current rate of expenditures will exceed the existing appropriation for the program in the current fiscal year; and
- (3) Information regarding the commission's recommendations for changes to income eligibility, enrollment fees, coinsurance, deductibles, and benefit caps for enrollees in the program.

17. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 208.550 to 208.571 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. Sections 208.550 to 208.571 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

18. Any person who knowingly makes any false statements, falsifies or permits to be falsified any records, or engages in conduct in an attempt to defraud the program is guilty of a misdemeanor and shall forfeit all rights to which he or she may be entitled hereunder.

208.559. ENROLLMENT PERIODS. — 1. The Missouri Senior Rx program shall be operational no later than July 1, 2002. The division shall accept applications for enrollment during an initial open enrollment period from April 1, 2002, through May 30, 2002. Beginning with the enrollment period for fiscal year 2004, open enrollment periods for the program shall be held from January first through February twenty-eighth.

2. A person may apply for participation in the program outside the enrollment periods listed in subsection 1 of this section within thirty days of such person attaining the age and income eligibility requirements of the program established in section 208.556.

208.562. USE OF GENERIC DRUGS — REIMBURSEMENT OF PHARMACIES. — 1. Generic prescription drugs shall be used for the program when available. An enrollee may receive a name brand drug when a generic drug is available only if both the physician and enrollee request that the name brand drug be dispensed and the enrollee pays the coinsurance on the generic drug plus the difference in cost between the name brand drug and the generic drug.

2. Pharmacists participating in the Missouri Senior Rx program shall be reimbursed for the price of prescription drugs based on the following formula:

(1) For generic prescription drugs, the average wholesale price minus twenty percent, plus a four dollar and nine cent dispensing fee; and

(2) For name brand prescription drugs, the average wholesale price minus ten and forty-three one hundredths percent, plus a four dollar and nine cent dispensing fee.

208.565. REBATES, AMOUNT, USE OF. — 1. The division shall negotiate with manufacturers for participation in the program. The division shall issue a certificate of participation to pharmaceutical manufacturers participating in the Missouri Senior Rx program. A pharmaceutical manufacturer may apply for participation in the program with an application form prescribed by the commission. A certificate of participation shall remain in effect for an initial period of not less than one year and shall be automatically renewed unless terminated by either the manufacturer or the state with sixty days notification.

2. The rebate amount for each drug shall be fifteen percent of the average manufacturers' price as defined pursuant to 42 U.S.C. 1396r-8(k)(1). No other discounts shall apply. In order to receive a certificate of participation a manufacturer or distributor participating in the Missouri Senior Rx program shall provide the division of aging the average manufacturers' price for their contracted products. The following shall apply to the providing of average manufacturers' price information to the division of aging:

(1) Any manufacturer or distributor with an agreement under this section that knowingly provides false information is subject to a civil penalty in an amount not to exceed one hundred thousand dollars for each provision of false information. Such penalties shall be in addition to other penalties as prescribed by law;

(2) Notwithstanding any other provision of law, information disclosed by manufacturers or wholesalers pursuant to this subsection or under an agreement with the division pursuant to section 208.565 is confidential and shall not be disclosed by the division or any other state agency or contractor therein in any form which discloses the identity of a specific manufacturer or wholesaler or prices charged for drugs by such manufacturer or wholesaler, except to permit the state auditor to review the information provided and the division of medical services for rebate administration.

3. All rebates received through the program shall be used toward refunding the program. If a pharmaceutical manufacturer refuses to participate in the rebate program, such refusal shall not affect the manufacturer's status under the current Medicaid program. There shall be no drug formulary, prior approval system, or any similar restriction imposed on the coverage of outpatient drugs made by pharmaceutical

manufacturers who have agreements to pay rebates for drugs utilized in the Missouri Senior Rx program, provided that such outpatient drugs were approved by the Food and Drug Administration.

4. Any prescription drug of a manufacturer that does not participate in the program shall not be reimbursable.

208.568. MISSOURI SENIOR RX PROGRAM FUND CREATED, ADMINISTRATION, USE OF FUNDS. — 1. There is hereby created in the state treasury the "Missouri Senior Rx Fund", which shall consist of all moneys deposited in the fund pursuant to sections 208.550 to 208.571 and all moneys which may be appropriated to it by the general assembly, from federal or other sources.

2. The state treasurer shall administer the fund and credit all interest to the fund and the moneys in the fund shall be used solely by the commission for the Missouri Senior Rx program and the division of aging for the implementation of the program for seniors established in sections 208.550 to 208.571.

3. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not revert to the credit of the general revenue fund at the end of the biennium.

208.571. MISSOURI SENIOR RX CLEARINGHOUSE ESTABLISHED, DUTIES, ADMINISTRATION. — 1. Subject to appropriations, there is hereby established the "Missouri Senior Rx Clearinghouse" within the commission for the Missouri Senior Rx program established pursuant to section 208.553. The commission may submit requests for proposal for the third-party administration of the clearinghouse. The third-party administrator of the Missouri Senior Rx program may submit a request for proposal for administration of the clearinghouse. The purpose of the clearinghouse shall include, but not be limited to:

- (1) Assist all Missouri residents in accessing prescription drug programs;
 - (2) Educate the public on quality drug programs and cost containment strategies;
 - (3) Serve as a resource for pharmaceutical benefit issues.
2. The administration of the clearinghouse shall include, but not be limited to:
- (1) Providing a one-stop-shopping clearinghouse for all information for seniors regarding prescription drug coverage programs and health insurance issues;
 - (2) Targeting outreach and education including print and media, social service and health care providers to promote the program;
 - (3) Maintaining a toll free 800-phone number staffed by trained customer service representatives;
 - (4) Providing the state with measurable data to identify the progress and success of the program, including but not limited to, the number of individuals served, length and type of assistance, follow-up and program evaluation.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure the timely provision of prescription drugs to the elderly, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

SECTION C. REAUTHORIZATION CLAUSE. — The provisions of sections 208.550 to 208.571 of this act shall be reauthorized every four years.

Approved October 5, 2001

HB 4 [SCS HS HCS HB 4]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires state livestock marketing provisions to be enforced consistent with federal Packers and Stockyards Act.

AN ACT to repeal sections 277.203 and 277.212, RSMo, relating to livestock marketing, and to enact in lieu thereof three new sections relating to the same subject, with an emergency clause.

SECTION

- A. Enacting clause.
- 277.201. Enforcement of livestock packers law to be consistent with federal act.
- 277.202. Unlawful acts.
- 277.212. Violations referred to the attorney general.
- 277.203. Packers of livestock — price discrimination prohibited — exceptions.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 277.203 and 277.212, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 277.201, 277.202 and 277.212, to read as follows:

277.201. ENFORCEMENT OF LIVESTOCK PACKERS LAW TO BE CONSISTENT WITH FEDERAL ACT. — Sections 277.200 to 277.215 shall be enforced in a manner which is consistent with the Packers and Stockyards Act (7 U.S.C.A. 181 et seq.) as it relates to live cattle, swine or sheep.

277.202. UNLAWFUL ACTS. — It shall be unlawful for any packer with respect to livestock, meats, meat food products, or livestock products in unmanufactured form to:

(1) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device; or

(2) Make or give any undue or unreasonable preference or advantage to any particular person or locality in any respect whatsoever, or subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; or

(3) Sell or otherwise transfer to or for any other packer or buy or otherwise receive from or for any other packer, any article for the purpose or with the effect of apportioning the supply between any such persons, if such apportionment has the tendency or effect of restraining commerce or of creating a monopoly; or

(4) Sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce; or

(5) Engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce; or

(6) Conspire, combine, agree, or arrange, with any other person to apportion territory for carrying on business, or to apportion purchases or sales of any article, or to manipulate or control prices; or

(7) Conspire, combine, agree or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by subdivision (a), (b), (c), (d) or (e) of 7 U.S.C.A. 192.

277.212. VIOLATIONS REFERRED TO THE ATTORNEY GENERAL. — [1.] The attorney general shall enforce the provisions of sections 277.200 to 277.215. The department of agriculture shall refer violations of the provisions of sections 277.200 to 277.215 to the attorney general. The attorney general [or any person injured by a violation of the provisions of sections 277.200 to 277.215] may bring an action pursuant to the provisions of chapter 407, RSMo, for any remedy allowed for unlawful merchandising practices.

[2. A seller who receives a discriminatory price or who is offered only a discriminatory price in violation of the provisions of sections 277.200 to 277.215 may receive treble damages, costs and a reasonable attorney's fee.]

[277.203. PACKERS OF LIVESTOCK — PRICE DISCRIMINATION PROHIBITED — EXCEPTIONS. — A packer purchasing or soliciting livestock in this state for slaughter shall not discriminate in prices paid or offered to be paid to sellers of that livestock. The provisions of this section shall not be construed to mean that a price or payment method must remain fixed throughout any marketing period. The provisions of this section shall not apply to the sale and purchase of livestock if the following requirements are met:

(1) The price differential is based on the quality of the livestock, if the packer purchases or solicits the livestock based upon a payment method specifying prices paid for criteria relating to carcass merit; actual and quantifiable costs related to transporting and acquiring the livestock by the packer; or an agreement for the delivery of livestock at a specified date or time; and

(2) After making a differential payment to a seller, the packer publishes information relating to the differential pricing, including the payment method for carcass merit, transportation and acquisition pricing, and an offer to enter into an agreement for the delivery of livestock at a specified date or time according to the same terms and conditions offered to other sellers.]

SECTION B. EMERGENCY CLAUSE. — Because of the need for continuity within the livestock packing industry, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved September 28, 2001

HB 5 [SCS HS HCS HBs 5, 1 & 2]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prevents federal advance tax payment from reducing federal income tax deduction.

AN ACT relating to individual income tax treatment of federal credit or advance refund of federal credit allowed to individual taxpayers under section 6428 of the Internal Revenue Code for tax year 2001, with an emergency clause.

SECTION

1. Allows a deduction for the 2001 federal ten percent rate bracket income tax rebate increasing Missouri taxable income.
- A. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION 1. ALLOWS A DEDUCTION FOR THE 2001 FEDERAL TEN PERCENT RATE BRACKET INCOME TAX REBATE INCREASING MISSOURI TAXABLE INCOME. — In addition to any deduction for federal income taxes allowed pursuant to section 143.171, RSMo, for the taxpayer's first tax year beginning on or after January 1, 2001, and on or before December 31, 2001, an individual taxpayer shall be allowed a deduction for any federal credit allowed pursuant to section 6428 of the Internal Revenue Code for the accelerated ten percent income tax rate bracket for tax year 2001, including any advance refund of the credit allowed to the taxpayer pursuant to section 6428(e) of the Internal Revenue Code, only to the extent such federal credit or advance refund of the credit would otherwise increase the Missouri taxable income of the taxpayer. The sum of the deduction allowed to the taxpayer pursuant to subsection 2 of section 143.171, RSMo, and the deduction allowed pursuant to this section shall not exceed the applicable dollar limit imposed pursuant to subsection 2 of section 143.171, RSMo.

SECTION A. EMERGENCY CLAUSE. — Because immediate action is necessary to prevent certain federal tax rebates from resulting in an increased tax burden to the citizens of Missouri, this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, this act shall be in full force and effect upon its passage and approval.

Approved October 9, 2001

SB 3 [HS HCS SCS SBs 3, 8 & 9]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prevents the one-time 2001 federal tax rebate check from increasing a taxpayer's Missouri state income tax.

AN ACT relating to individual income tax treatment of federal credit or advance refund of federal credit allowed to individual taxpayers under section 6428 of the Internal Revenue Code for tax year 2001, with an emergency clause.

SECTION

1. Allows a deduction for the 2001 federal ten percent rate bracket income tax rebate increasing Missouri taxable income.
- A. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. ALLOWS A DEDUCTION FOR THE 2001 FEDERAL TEN PERCENT RATE BRACKET INCOME TAX REBATE INCREASING MISSOURI TAXABLE INCOME. — In addition to any deduction for federal income taxes allowed pursuant to section 143.171, RSMo, for the taxpayer's first tax year beginning on or after January 1, 2001, and on or before December 31, 2001, an individual taxpayer shall be allowed a deduction for any federal credit allowed pursuant to section 6428 of the Internal Revenue Code for the accelerated ten percent income tax rate bracket for tax year 2001, including any advance refund of the credit allowed to the taxpayer pursuant to section 6428(e) of the Internal Revenue Code, only to the extent such federal credit or advance refund of the credit would otherwise increase the Missouri taxable income of the taxpayer. The sum of the deduction allowed to the taxpayer pursuant to subsection 2 of section 143.171, RSMo, and the deduction allowed pursuant to this section shall not exceed the applicable dollar limit imposed pursuant to subsection 2 of section 143.171, RSMo.

SECTION A. EMERGENCY CLAUSE. — Because immediate action is necessary to prevent certain federal tax rebates from resulting in an increased tax burden to the citizens of Missouri, this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval.

Approved October 9, 2001

SB 4 [CCS HCS SCS SBs 4, 1, 5 & 6]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the Missouri Senior Rx Program to provide pharmaceutical assistance for seniors.

AN ACT to repeal sections 135.095 and 208.151, RSMo, relating to the Missouri Senior Rx program, and to enact in lieu thereof ten new sections relating to the same subject, with a reauthorization date, penalty provisions, and an emergency clause.

SECTION

- A. Enacting clause.
- 135.095. Maximum amount, qualifications, phase-out of credit based on income, expiration date.
- 208.151. Medical assistance, persons eligible — rulemaking authority.
- 208.550. Definitions.
- 208.553. Commission for the Missouri Senior Rx program established, members, terms, duties, expenses.
- 208.556. Missouri Senior Rx program established, administration, drug benefits, eligibility, applications — deductibles, coinsurance, and enrollment fees — quarterly reports — rulemaking authority — penalty for false statements.
- 208.559. Enrollment periods.
- 208.562. Use of generic drugs — reimbursement of pharmacies.
- 208.565. Rebates, amount, use of.
- 208.568. Missouri Senior Rx program fund created, administration, use of funds.
- 208.571. Missouri Senior Rx clearinghouse established, duties, administration.
- B. Emergency clause.
- C. Reauthorization clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 135.095 and 208.151, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 135.095, 208.151, 208.550, 208.553, 208.556, 208.559, 208.562, 208.565, 208.568 and 208.571, to read as follows:

135.095. MAXIMUM AMOUNT, QUALIFICATIONS, PHASE-OUT OF CREDIT BASED ON INCOME, EXPIRATION DATE. — For all tax years beginning on or after January 1, 1999, but before [January 1, 2005] **December 31, 2001**, a resident individual who has attained sixty-five years of age on or before the last day of the tax year shall be allowed, for the purpose of offsetting the cost of legend drugs, a maximum credit against the tax otherwise due pursuant to chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, of two hundred dollars. An individual shall be entitled to the maximum credit allowed by this section if the individual has a Missouri adjusted gross income of fifteen thousand dollars or less; provided that, no individual who receives full reimbursement for the cost of legend drugs from Medicare or Medicaid, or who is a resident of a local, state or federally funded facility shall qualify for the credit allowed pursuant to this section. If an individual's Missouri adjusted gross income is greater than fifteen thousand dollars, such individual shall be entitled to a credit equal to the greater of zero or the maximum credit allowed by this section reduced by two dollars for every hundred dollars such individual's income exceeds fifteen thousand dollars. The credit shall be claimed as prescribed by the director of the department of revenue. Such credit shall be considered an overpayment of tax and shall be refundable even if the amount of the credit exceeds an individual's tax liability.

208.151. MEDICAL ASSISTANCE, PERSONS ELIGIBLE — RULEMAKING AUTHORITY. —

1. For the purpose of paying medical assistance on behalf of needy persons and to comply with Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. Section 301 et seq.) as amended, the following needy persons shall be eligible to receive medical assistance to the extent and in the manner hereinafter provided:

- (1) All recipients of state supplemental payments for the aged, blind and disabled;
 - (2) All recipients of aid to families with dependent children benefits, including all persons under nineteen years of age who would be classified as dependent children except for the requirements of subdivision (1) of subsection 1 of section 208.040;
 - (3) All recipients of blind pension benefits;
 - (4) All persons who would be determined to be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits under the eligibility standards in effect December 31, 1973, or less restrictive standards as established by rule of the division
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of family services, who are sixty-five years of age or over and are patients in state institutions for mental diseases or tuberculosis;

(5) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children except for the requirements of subdivision (2) of subsection 1 of section 208.040, and who are residing in an intermediate care facility, or receiving active treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as amended;

(6) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children benefits except for the requirement of deprivation of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(7) All persons eligible to receive nursing care benefits;

(8) All recipients of family foster home or nonprofit private child-care institution care, subsidized adoption benefits and parental school care wherein state funds are used as partial or full payment for such care;

(9) All persons who were recipients of old age assistance benefits, aid to the permanently and totally disabled, or aid to the blind benefits on December 31, 1973, and who continue to meet the eligibility requirements, except income, for these assistance categories, but who are no longer receiving such benefits because of the implementation of Title XVI of the federal Social Security Act, as amended;

(10) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child in the home;

(11) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child who is deprived of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(12) Pregnant women or infants under one year of age, or both, whose family income does not exceed an income eligibility standard equal to one hundred eighty-five percent of the federal poverty level as established and amended by the federal Department of Health and Human Services, or its successor agency;

(13) Children who have attained one year of age but have not attained six years of age who are eligible for medical assistance under 6401 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989). The division of family services shall use an income eligibility standard equal to one hundred thirty-three percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency;

(14) Children who have attained six years of age but have not attained nineteen years of age. For children who have attained six years of age but have not attained nineteen years of age, the division of family services shall use an income assessment methodology which provides for eligibility when family income is equal to or less than equal to one hundred percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency. As necessary to provide Medicaid coverage under this subdivision, the department of social services may revise the state Medicaid plan to extend coverage under 42 U.S.C. 1396a (a)(10)(A)(i)(III) to children who have attained six years of age but have not attained nineteen years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. 1396d using a more liberal income assessment methodology as authorized by paragraph (2) of subsection (r) of 42 U.S.C. 1396a;

(15) The following children with family income which does not exceed two hundred percent of the federal poverty guideline for the applicable family size:

(a) Infants who have not attained one year of age with family income greater than one hundred eighty-five percent of the federal poverty guideline for the applicable family size;

(b) Children who have attained one year of age but have not attained six years of age with family income greater than one hundred thirty-three percent of the federal poverty guideline for the applicable family size; and

(c) Children who have attained six years of age but have not attained nineteen years of age with family income greater than one hundred percent of the federal poverty guideline for the

applicable family size. Coverage under this subdivision shall be subject to the receipt of notification by the director of the department of social services and the revisor of statutes of approval from the secretary of the U.S. Department of Health and Human Services of applications for waivers of federal requirements necessary to promulgate regulations to implement this subdivision. The director of the department of social services shall apply for such waivers. The regulations may provide for a basic primary and preventive health care services package, not to include all medical services covered by section 208.152, and may also establish co-payment, coinsurance, deductible, or premium requirements for medical assistance under this subdivision. Eligibility for medical assistance under this subdivision shall be available only to those infants and children who do not have or have not been eligible for employer-subsidized health care insurance coverage for the six months prior to application for medical assistance. Children are eligible for employer-subsidized coverage through either parent, including the noncustodial parent. The division of family services may establish a resource eligibility standard in assessing eligibility for persons under this subdivision. The division of medical services shall define the amount and scope of benefits which are available to individuals under this subdivision in accordance with the requirement of federal law and regulations. Coverage under this subdivision shall be subject to appropriation to provide services approved under the provisions of this subdivision;

(16) The division of family services shall not establish a resource eligibility standard in assessing eligibility for persons under subdivision (12), (13) or (14) of this subsection. The division of medical services shall define the amount and scope of benefits which are available to individuals eligible under each of the subdivisions (12), (13), and (14) of this subsection, in accordance with the requirements of federal law and regulations promulgated thereunder except that the scope of benefits shall include case management services;

(17) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal care shall be made available to pregnant women during a period of presumptive eligibility pursuant to 42 U.S.C. Section 1396r-1, as amended;

(18) A child born to a woman eligible for and receiving medical assistance under this section on the date of the child's birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of time determined in accordance with applicable federal and state law and regulations so long as the child is a member of the woman's household and either the woman remains eligible for such assistance or for children born on or after January 1, 1991, the woman would remain eligible for such assistance if she were still pregnant. Upon notification of such child's birth, the division of family services shall assign a medical assistance eligibility identification number to the child so that claims may be submitted and paid under such child's identification number;

(19) Pregnant women and children eligible for medical assistance pursuant to subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for medical assistance benefits be required to apply for aid to families with dependent children. The division of family services shall utilize an application for eligibility for such persons which eliminates information requirements other than those necessary to apply for medical assistance. The division shall provide such application forms to applicants whose preliminary income information indicates that they are ineligible for aid to families with dependent children. Applicants for medical assistance benefits under subdivision (12), (13) or (14) shall be informed of the aid to families with dependent children program and that they are entitled to apply for such benefits. Any forms utilized by the division of family services for assessing eligibility under this chapter shall be as simple as practicable;

(20) Subject to appropriations necessary to recruit and train such staff, the division of family services shall provide one or more full-time, permanent case workers to process applications for medical assistance at the site of a health care provider, if the health care provider requests the placement of such case workers and reimburses the division for the expenses including but not

limited to salaries, benefits, travel, training, telephone, supplies, and equipment, of such case workers. The division may provide a health care provider with a part-time or temporary case worker at the site of a health care provider if the health care provider requests the placement of such a case worker and reimburses the division for the expenses, including but not limited to the salary, benefits, travel, training, telephone, supplies, and equipment, of such a case worker. The division may seek to employ such case workers who are otherwise qualified for such positions and who are current or former welfare recipients. The division may consider training such current or former welfare recipients as case workers for this program;

(21) Pregnant women who are eligible for, have applied for and have received medical assistance under subdivision (2), (10), (11) or (12) of this subsection shall continue to be considered eligible for all pregnancy-related and postpartum medical assistance provided under section 208.152 until the end of the sixty-day period beginning on the last day of their pregnancy;

(22) Case management services for pregnant women and young children at risk shall be a covered service. To the greatest extent possible, and in compliance with federal law and regulations, the department of health and senior services shall provide case management services to pregnant women by contract or agreement with the department of social services through local health departments organized under the provisions of chapter 192, RSMo, or chapter 205, RSMo, or a city health department operated under a city charter or a combined city-county health department or other department of health and senior services designees. To the greatest extent possible the department of social services and the department of health and senior services shall mutually coordinate all services for pregnant women and children with the crippled children's program, the prevention of mental retardation program and the prenatal care program administered by the department of health and senior services. The department of social services shall by regulation establish the methodology for reimbursement for case management services provided by the department of health and senior services. For purposes of this section, the term "case management" shall mean those activities of local public health personnel to identify prospective Medicaid-eligible high-risk mothers and enroll them in the state's Medicaid program, refer them to local physicians or local health departments who provide prenatal care under physician protocol and who participate in the Medicaid program for prenatal care and to ensure that said high-risk mothers receive support from all private and public programs for which they are eligible and shall not include involvement in any Medicaid prepaid, case-managed programs;

(23) By January 1, 1988, the department of social services and the department of health and senior services shall study all significant aspects of presumptive eligibility for pregnant women and submit a joint report on the subject, including projected costs and the time needed for implementation, to the general assembly. The department of social services, at the direction of the general assembly, may implement presumptive eligibility by regulation promulgated pursuant to chapter 207, RSMo;

(24) All recipients who would be eligible for aid to families with dependent children benefits except for the requirements of paragraph (d) of subdivision (1) of section 208.150;

(25) All persons who would be determined to be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits, under the eligibility standards in effect December 31, 1973[, or those supplemental security income recipients who would be determined eligible for general relief benefits under the eligibility standards in effect December 31, 1973, except income; or less restrictive standards as established by rule of the division of family services]; **except that, on or after July 1, 2002, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a (r)(2), shall be used to raise the income limit to eighty percent of the federal poverty level and, as of July 1, 2003, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), shall be used to raise the income limit to ninety percent of the federal poverty level and, as of July 1, 2004, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), shall be used to raise the income limit to one hundred percent of the federal poverty level.** If federal

law or regulation authorizes the division of family services to, by rule, exclude the income or resources of a parent or parents of a person under the age of eighteen and such exclusion of income or resources can be limited to such parent or parents, then notwithstanding the provisions of section 208.010:

(a) The division may by rule exclude such income or resources in determining such person's eligibility for permanent and total disability benefits; and

(b) Eligibility standards for permanent and total disability benefits shall not be limited by age;

(26) Within thirty days of the effective date of an initial appropriation authorizing medical assistance on behalf of "medically needy" individuals for whom federal reimbursement is available under 42 U.S.C. 1396a (a)(10)(c), the department of social services shall submit an amendment to the Medicaid state plan to provide medical assistance on behalf of, at a minimum, an individual described in subclause (I) or (II) of clause 42 U.S.C. 1396a (a)(10)(C)(ii);

(27) Persons who have been diagnosed with breast or cervical cancer and who are eligible for coverage pursuant to 42 U.S.C. 1396a (a)(10)(A)(ii)(XVIII). Such persons shall be eligible during a period of presumptive eligibility in accordance with 42 U.S.C. 1396r-1.

2. Rules and regulations to implement this section shall be promulgated in accordance with section 431.064, RSMo, and chapter 536, RSMo. [No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.**

3. After December 31, 1973, and before April 1, 1990, any family eligible for assistance pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the last six months immediately preceding the month in which such family became ineligible for such assistance because of increased income from employment shall, while a member of such family is employed, remain eligible for medical assistance for four calendar months following the month in which such family would otherwise be determined to be ineligible for such assistance because of income and resource limitation. After April 1, 1990, any family receiving aid pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the six months immediately preceding the month in which such family becomes ineligible for such aid, because of hours of employment or income from employment of the caretaker relative, shall remain eligible for medical assistance for six calendar months following the month of such ineligibility as long as such family includes a child as provided in 42 U.S.C. 1396r-6. Each family which has received such medical assistance during the entire six-month period described in this section and which meets reporting requirements and income tests established by the division and continues to include a child as provided in 42 U.S.C. 1396r-6 shall receive medical assistance without fee for an additional six months. The division of medical services may provide by rule the scope of medical assistance coverage to be granted to such families.

4. For purposes of section 1902(1), (10) of Title XIX of the federal Social Security Act, as amended, any individual who, for the month of August, 1972, was eligible for or was receiving aid or assistance pursuant to the provisions of Titles I, X, XIV, or Part A of Title IV of such act and who, for such month, was entitled to monthly insurance benefits under Title II of such act, shall be deemed to be eligible for such aid or assistance for such month thereafter prior to October, 1974, if such individual would have been eligible for such aid or assistance for such month had the increase in monthly insurance benefits under Title II of such act resulting

from enactment of Public Law 92-336 amendments to the federal Social Security Act (42 U.S.C. 301 et seq.), as amended, not been applicable to such individual.

5. When any individual has been determined to be eligible for medical assistance, such medical assistance will be made available to him for care and services furnished in or after the third month before the month in which he made application for such assistance if such individual was, or upon application would have been, eligible for such assistance at the time such care and services were furnished; provided, further, that such medical expenses remain unpaid.

6. **The department of social services may apply to the federal Department of Health and Human Services for a Medicaid waiver amendment to the section 1115 demonstration waiver or for any additional Medicaid waivers necessary and desirable to implement the increased income limit, as authorized in subdivision (25) of subsection 1 of section 208.151.**

208.550. DEFINITIONS. — As used in sections 208.550 to 208.571, the following terms mean:

(1) "Clearinghouse", the Missouri Senior Rx clearinghouse established in section 208.571;

(2) "Commission", the commission for the Missouri Senior Rx program established in section 208.553;

(3) "Direct seller", any person, partnership, corporation, institution or entity engaged in the selling of pharmaceutical products directly to consumers in this state;

(4) "Distributor", a private entity under contract with the original labeler or holder of the national code number to manufacture, package or market the covered prescription drug;

(5) "Division", the division of aging within the department of health and senior services;

(6) "FDA", the Food and Drug Administration of the Public Health Services of the Department of Health and Human Services;

(7) "Generic drug", a chemically equivalent copy of a brand-name drug for which the patent has expired. Drug formulations must be of identical composition with respect to the active ingredient and must meet official standards of identity, purity, and quality of active ingredient as approved by the Food and Drug Administration;

(8) "Household income", the amount of income as defined in section 135.010, RSMo. For purposes of this section, household income shall be the household income of the applicant for the previous calendar year;

(9) "Innovator multiple-source drugs", a multiple-source drug that was originally marketed under a new drug application approved by the FDA. The term includes:

(a) Covered prescription drugs approved under Product License Approval (PLA), Establishment Licenses Approval (ELA), or Antibiotic Drug Approval (ADA); and

(b) A covered prescription drug marketed by a cross-licensed producer or distributor under the Approved New Drug Application (ANDA) when the drug product meets this definition;

(10) "Manufacturer", shall include:

(a) An entity which is engaged in any of the following:

a. The production, preparation, propagation, compounding, conversion or processing of prescription drug products:

(i) Directly or indirectly by extraction from substances of natural origin;

(ii) Independently by means of chemical synthesis; or

(iii) By a combination of extraction and chemical synthesis;

b. The packaging, repackaging, labeling or relabeling, or distribution of prescription drug products;

(b) The entity holding legal title to or possession of the national drug code number for the covered prescription drug;

(c) The term does not include a wholesale distributor of drugs, drugstore chain organization or retail pharmacy licensed by the state;

(11) "Medicaid", the program for medical assistance established pursuant to Title XIX of the federal Social Security Act and administered by the department of social services;

(12) "Missouri resident", an individual who establishes residence for a period of twelve months in a settled or permanent home or domicile within the state of Missouri with the intention of remaining in this state. An individual is a resident of this state until the individual establishes a permanent residence outside this state;

(13) "National drug code number", the identifying drug number maintained by the FDA. The complete eleven-digit number must include the labeler code, product code and package size code;

(14) "New drug", a covered prescription drug approved as a new drug under section 201(p) of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 21 U.S.C. S 321(p));

(15) "Prescription drug", a drug which may be dispensed only upon prescription by an authorized prescriber and which is approved for safety and effectiveness as a prescription drug under section 505 or 507 of the Federal Food, Drug and Cosmetic Act;

(16) "Program", the Missouri Senior Rx program established pursuant to section 208.556;

(17) "Single-source drugs", legend drug products for which the FDA has not approved on Abbreviated New Drug Application (ANDA);

(18) "Third-party administrator", a private party contracted to administer the Missouri Senior Rx program established in section 208.556, with duties that may include, but shall not be limited to, devising applications, enrolling members, administration of prescription drug benefits, and implementation of cost-control measures, including such programs as disease management programs, early refill edits, and fraud and abuse detection system and auditing programs;

(19) "Unit", a drug unit in the lowest identifiable amount, such as tablet or capsule for solid dosage forms, milliliter for liquid forms and gram for ointments or creams. The manufacturer shall specify the unit for each dosage form and strength of each covered prescription drug in accordance with the instructions developed by the Center for Medicare and Medicaid Services (CMS) for purposes of the Federal Medicaid Rebate Program under section 1927 of Title XIX of the Social Security Act (49 Stat. 620, 42 U.S.C. section 301 et seq.);

(20) "Wholesaler", any person, partnership, corporation, institution or entity to which the manufacturer sells the covered prescription drug, including a pharmacy or chain of pharmacies.

208.553. COMMISSION FOR THE MISSOURI SENIOR RX PROGRAM ESTABLISHED, MEMBERS, TERMS, DUTIES, EXPENSES. — 1. There is hereby established the "Commission for the Missouri Senior Rx Program" within the division of aging in the department of health and senior services to govern the operation of the Missouri Senior Rx program established in section 208.556. The commission shall consist of the following fifteen members:

(1) The lieutenant governor, in his or her capacity as advocate for the elderly;

(2) Two members of the senate, with one member from the majority party appointed by the president pro tem of the senate and one member of the minority party appointed by the president pro tem of the senate with the concurrence of the minority floor leader of the senate;

(3) Two members of the house of representatives, with one member from the majority party appointed by the speaker of the house of representatives and one member

of the minority party appointed by the speaker of the house of representatives with the concurrence of the minority floor leader of the house of representatives;

(4) The director of the division of medical services in the department of social services;

(5) The director of the division of aging in the department of health and senior services;

(6) The chairperson of the commission on special health, psychological and social needs of minority older individuals;

(7) The following four members appointed by the governor with the advice and consent of the senate:

(a) A pharmacist;

(b) A physician;

(c) A representative from a senior advocacy group; and

(d) A representative from an area agency on aging;

(8) A representative from the pharmaceutical manufacturers industry as a nonvoting member appointed by the president pro tem of the senate and the speaker of the house of representatives;

(9) One public member appointed by the president pro tem of the senate; and

(10) One public member appointed by the speaker of the house of representatives. In making the initial appointment to the committee, the governor, president pro tem, and speaker shall stagger the terms of the appointees so that four members serve initial terms of two years, four members serve initial terms of three years, four members serve initial terms of four years and one member serves an initial term of one year. All members appointed thereafter shall serve three-year terms. All members shall be eligible for reappointment. The commission shall elect a chair and may employ an executive director and such professional, clerical, and research personnel as may be necessary to assist in the performance of the commission's duties.

2. Recognizing the unique medical needs of the senior African American population, the president pro tem of the senate, speaker of the house of representatives and governor will collaborate to ensure that there is adequate minority representation among legislative members and other members of the commission.

3. The commission:

(1) May establish guidelines, policies, and procedures necessary to establish the Missouri Senior Rx program;

(2) Shall hold quarterly meetings within fifteen days of the submission of each quarterly report required in subsection 16 of section 208.556, and other meetings as deemed necessary;

(3) May establish guidelines and collect information and data to promote and facilitate the program;

(4) May, after implementation of the program, evaluate and make recommendations to the governor and general assembly regarding the creation of a senior prescription drug benefit available to seniors who are not eligible for the program due to income that does not meet the program requirements;

(5) Shall have rulemaking authority for the implementation and administration of the program;

(6) The commission shall utilize the definition of "generic drug" as defined pursuant to section 208.550 as a general guideline and the commission may revise such definition, by rule, for the purpose of maximizing the use of generic drugs in the program.

4. The members of the commission shall receive no compensation for their service on the commission, but shall be reimbursed for ordinary and necessary expenses incurred in the performance of their duties as a member of the commission.

208.556. MISSOURI SENIOR RX PROGRAM ESTABLISHED, ADMINISTRATION, DRUG BENEFITS, ELIGIBILITY, APPLICATIONS — DEDUCTIBLES, COINSURANCE, AND ENROLLMENT FEES — QUARTERLY REPORTS — RULEMAKING AUTHORITY — PENALTY FOR FALSE STATEMENTS. — 1. There is hereby established the "Missouri Senior Rx Program" within the division of aging in the department of health and senior services to help defray the costs of prescription drugs for elderly Missouri residents. The division shall provide technical assistance to the commission for the administration and implementation of the program. The commission shall solicit requests for proposals from private contractors for the third-party administration of the program; except that, the commission shall either administer the rebate program established in section 208.565 or contract with the division of medical services for such rebate program. The program shall be governed by the commission for the Missouri Senior Rx program established in section 208.553.

2. Administration of the program shall include, but not be limited to, devising program applications, enrolling participants, administration of prescription drug benefits, and implementation of cost-control measures, including such strategies as disease management programs, early refill edits, drug utilization review which includes retroactive approval systems, fraud and abuse detection system, and auditing programs. The commission shall select a responsive, cost-effective bid from the requests for proposal; however, if no responsive, cost-effective bids are received, the program shall be administered collaboratively by the department of health and senior services and the department of social services.

3. Prescription drug benefits shall not include coverage of the following drugs or classes of drugs, or their medical uses:

- (1) Agents when used for anorexia or weight gain;
- (2) Agents when used to promote fertility;
- (3) Agents when used for cosmetic purposes or hair growth;
- (4) Agents when used for the symptomatic relief of cough and colds;
- (5) Agents when used to promote smoking cessation;
- (6) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations;
- (7) Nonprescription drugs;
- (8) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee;
- (9) Barbiturates;
- (10) Benzodiazepines.

4. Subject to appropriations, available funds and other cost control measures authorized herein, any Missouri resident sixty-five years of age or older, who has not had access to employer-subsidized health care insurance that offers a pharmacy benefit for six months prior to application, who is not currently ineligible pursuant to subsection 8 of this section:

(1) Who has a household income at or below twelve thousand dollars for an individual or at or below seventeen thousand dollars for a married couple is eligible to participate in the program; or

(2) Who has a household income at or below seventeen thousand dollars for an individual or at or below twenty-three thousand dollars for a married couple is eligible to participate in the program.

(3) However, the commission may restrict income eligibility limits as a last resort to obtain program cost control.

5. The commission shall have the authority to set and adjust coinsurance, deductibles and enrollment fees at different amounts pursuant to subdivisions (1) and (2) of subsection 4 of this section as a cost containment measure.

6. Any person who has retired and received employer-sponsored health insurance while employed, but whose employer does not offer health insurance coverage to retirees shall not be subject to the six-month uninsured requirement.

7. The program established in this section is not an entitlement. Benefits shall be limited to the level supported by the moneys explicitly appropriated pursuant to this section. If in any fiscal year the commission projects that the total cost of the program will exceed the amount currently appropriated for the program, the commission may direct the third-party administrator to implement cost-control measures to reduce the projected cost. Such cost-control measures may include, but are not limited to, increasing the enrollment fees in subsection 12 of this section, the deductibles in subsection 11 of this section, and the coinsurance outlined in subsection 12 of this section. The Missouri Senior Rx program is a payer of last resort. If the federal government establishes a pharmaceutical assistance program that covers program eligible seniors under Medicare or another program, the Missouri Senior Rx program shall cover only eligible costs not covered by the federal program.

8. Any person who is receiving Medicaid benefits shall not be eligible to participate in the program. The Missouri Senior Rx program is a payer of last resort. If a senior has coverage for pharmaceutical benefits through a health benefit plan, as defined in section 376.1350, RSMo, including a Medicare supplement or Medicare+Choice plan, or through a self-funded employee benefit plan, the Missouri Senior Rx program shall pay only for eligible costs not provided by such coverage. Individuals who have benefits with an actuarial value greater than or equal to the benefits in the program are not eligible for the program.

9. Applicants for the program shall submit an annual application to the division, or the division's designee, that attests to the age, residence, any third-party health insurance coverage, previous year prescription drug costs, annual household income for an individual or couple, if married, and any other information the commission deems necessary. The third-party administrator shall prescribe the form of the application for enrollment in the program, which shall be approved by the division. The commission shall develop and implement a means test by which applicants must demonstrate that they meet the income requirement of the program. Information provided by applicants and enrollees pursuant to sections 208.550 to 208.571 is confidential and shall not be disclosed by the commission, the division or any other state agency or contractor therein in any form.

10. Nothing in this section shall be construed as requiring an applicant to accept Medicaid benefits in lieu of participation in this program.

11. The following deductibles shall apply to enrollees in the program:

(1) For an individual with a household income at or below twelve thousand dollars, the deductible shall, in the initial year, not be less than two hundred fifty dollars;

(2) For a married couple with a household income at or below seventeen thousand dollars, the deductible shall, in the initial year, not be less than two hundred fifty dollars for each person;

(3) For an individual with a household income between twelve thousand one dollars and seventeen thousand dollars, the deductible shall, in the initial year, not be less than five hundred dollars; and

(4) For a married couple with a household income between seventeen thousand one dollars and twenty-three thousand dollars, the deductible shall, in the initial year, not be less than five hundred dollars for each person.

12. For prescription drugs, enrollees shall pay a forty percent coinsurance. The division may implement a higher coinsurance at the recommendation of the commission. Such coinsurance may be adjusted annually by the commission and shall be used to reduce the state's cost for the program. In addition, each enrollee with an annual

household income at or below twelve thousand dollars for an individual or at or below seventeen thousand dollars for a married couple shall pay, in the initial year, not less than an annual twenty-five dollar enrollment fee and each enrollee with a household income between twelve thousand one dollars and seventeen thousand dollars for an individual or at or below between seventeen thousand one dollars and twenty-three thousand dollars for a married couple shall pay, in the initial year, not less than an annual thirty-five dollar enrollment fee to offset the administrative costs of the program.

13. The total annual expenditures for each enrollee under this program may be up to but shall not exceed five thousand dollars for each participant.

14. In providing program benefits, the department may enter into a contract with a private individual, corporation or agency to implement the program.

15. The division shall utilize area agencies on aging, senior citizens centers, and other senior focused entities to provide outreach, enrollment referral assistance, and education services to potentially eligible seniors for the Missouri Senior Rx program. The division and third-party administrators shall be responsible for informing eligible seniors on the availability of and providing information about pharmaceutical company benefits which may be applicable.

16. The commission shall submit quarterly reports to the governor, the senate appropriations committee, the house of representatives budget committee, the speaker of the house of representatives, the president pro tem of the senate, and the division that include:

- (1) Quantified data as to the number of program applicants;
- (2) An estimate of whether the current rate of expenditures will exceed the existing appropriation for the program in the current fiscal year; and
- (3) Information regarding the commission's recommendations for changes to income eligibility, enrollment fees, coinsurance, deductibles, and benefit caps for enrollees in the program.

17. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 208.550 to 208.571 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. Sections 208.550 to 208.571 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

18. Any person who knowingly makes any false statements, falsifies or permits to be falsified any records, or engages in conduct in an attempt to defraud the program is guilty of a misdemeanor and shall forfeit all rights to which he or she may be entitled hereunder.

208.559. ENROLLMENT PERIODS. — 1. The Missouri Senior Rx program shall be operational no later than July 1, 2002. The division shall accept applications for enrollment during an initial open enrollment period from April 1, 2002, through May 30, 2002. Beginning with the enrollment period for fiscal year 2004, open enrollment periods for the program shall be held from January first through February twenty-eighth.

2. A person may apply for participation in the program outside the enrollment periods listed in subsection 1 of this section within thirty days of such person attaining the age and income eligibility requirements of the program established in section 208.556.

208.562. USE OF GENERIC DRUGS — REIMBURSEMENT OF PHARMACIES. — 1. Generic prescription drugs shall be used for the program when available. An enrollee may receive a name brand drug when a generic drug is available only if both the physician and

enrollee request that the name brand drug be dispensed and the enrollee pays the coinsurance on the generic drug plus the difference in cost between the name brand drug and the generic drug.

2. Pharmacists participating in the Missouri Senior Rx program shall be reimbursed for the price of prescription drugs based on the following formula:

(1) For generic prescription drugs, the average wholesale price minus twenty percent, plus a four dollar and nine cent dispensing fee; and

(2) For name brand prescription drugs, the average wholesale price minus ten and forty-three one hundredths percent, plus a four dollar and nine cent dispensing fee.

208.565. REBATES, AMOUNT, USE OF. — 1. The division shall negotiate with manufacturers for participation in the program. The division shall issue a certificate of participation to pharmaceutical manufacturers participating in the Missouri Senior Rx program. A pharmaceutical manufacturer may apply for participation in the program with an application form prescribed by the commission. A certificate of participation shall remain in effect for an initial period of not less than one year and shall be automatically renewed unless terminated by either the manufacturer or the state with sixty days notification.

2. The rebate amount for each drug shall be fifteen percent of the average manufacturers' price as defined pursuant to 42 U.S.C. 1396r-8(k)(1). No other discounts shall apply. In order to receive a certificate of participation a manufacturer or distributor participating in the Missouri Senior Rx program shall provide the division of aging the average manufacturers' price for their contracted products. The following shall apply to the providing of average manufacturers' price information to the division of aging:

(1) Any manufacturer or distributor with an agreement under this section that knowingly provides false information is subject to a civil penalty in an amount not to exceed one hundred thousand dollars for each provision of false information. Such penalties shall be in addition to other penalties as prescribed by law;

(2) Notwithstanding any other provision of law, information disclosed by manufacturers or wholesalers pursuant to this subsection or under an agreement with the division pursuant to section 208.565 is confidential and shall not be disclosed by the division or any other state agency or contractor therein in any form which discloses the identity of a specific manufacturer or wholesaler or prices charged for drugs by such manufacturer or wholesaler, except to permit the state auditor to review the information provided and the division of medical services for rebate administration.

3. All rebates received through the program shall be used toward refunding the program. If a pharmaceutical manufacturer refuses to participate in the rebate program, such refusal shall not affect the manufacturer's status under the current Medicaid program. There shall be no drug formulary, prior approval system, or any similar restriction imposed on the coverage of outpatient drugs made by pharmaceutical manufacturers who have agreements to pay rebates for drugs utilized in the Missouri Senior Rx program, provided that such outpatient drugs were approved by the Food and Drug Administration.

4. Any prescription drug of a manufacturer that does not participate in the program shall not be reimbursable.

208.568. MISSOURI SENIOR RX PROGRAM FUND CREATED, ADMINISTRATION, USE OF FUNDS. — 1. There is hereby created in the state treasury the "Missouri Senior Rx Fund", which shall consist of all moneys deposited in the fund pursuant to sections 208.550 to 208.571 and all moneys which may be appropriated to it by the general assembly, from federal or other sources.

2. The state treasurer shall administer the fund and credit all interest to the fund and the moneys in the fund shall be used solely by the commission for the Missouri Senior Rx program and the division of aging for the implementation of the program for seniors established in sections 208.550 to 208.571.

3. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not revert to the credit of the general revenue fund at the end of the biennium.

208.571. MISSOURI SENIOR RX CLEARINGHOUSE ESTABLISHED, DUTIES, ADMINISTRATION. — 1. Subject to appropriations, there is hereby established the "Missouri Senior Rx Clearinghouse" within the commission for the Missouri Senior Rx program established pursuant to section 208.553. The commission may submit requests for proposal for the third-party administration of the clearinghouse. The third-party administrator of the Missouri Senior Rx program may submit a request for proposal for administration of the clearinghouse. The purpose of the clearinghouse shall include, but not be limited to:

- (1) Assist all Missouri residents in accessing prescription drug programs;
- (2) Educate the public on quality drug programs and cost containment strategies;
- (3) Serve as a resource for pharmaceutical benefit issues.

2. The administration of the clearinghouse shall include, but not be limited to:

- (1) Providing a one-stop-shopping clearinghouse for all information for seniors regarding prescription drug coverage programs and health insurance issues;
- (2) Targeting outreach and education including print and media, social service and health care providers to promote the program;
- (3) Maintaining a toll free 800-phone number staffed by trained customer service representatives;
- (4) Providing the state with measurable data to identify the progress and success of the program, including but not limited to, the number of individuals served, length and type of assistance, follow-up and program evaluation.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure the timely provision of prescription drugs to the elderly, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

SECTION C. REAUTHORIZATION CLAUSE. — The provisions of sections 208.550 to 208.571 of this act shall be reauthorized every four years.

Approved October 5, 2001

LAWS of MISSOURI

**Passed during the
Second Regular Session**

**NINETY-FIRST
GENERAL ASSEMBLY**

2002

HB 1101 [CCS SCS HCS HB 1101]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: BOARD OF FUND COMMISSIONERS.

AN ACT to appropriate money to the Board of Fund Commissioners for the cost of issuing and processing State Water Pollution Control Bonds, Stormwater Control Bonds, Third State Building Bonds and Fourth State Building Bonds, as provided by law, to include payments from the Water Pollution Control Bond and Interest Fund, Stormwater Control Bond and Interest Fund, Third State Building Bond Interest and Sinking Fund, Fourth State Building Bond and Interest Fund, Water Pollution Control Fund and Stormwater Control Fund, and to transfer money among certain funds for the period beginning July 1, 2002 and ending June 30, 2003.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28, of the Constitution of Missouri for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2002 and ending June 30, 2003, as follows:

SECTION 1.010. — To the Board of Fund Commissioners
 For expenses incurred in processing state water pollution control,
 stormwater control, third state building, and fourth state
 building bonds
 Personal Service. \$41,880
 Expense and Equipment 2,789
 Paying agent and escrow agent fees and related expenses 80,000E
 From General Revenue Fund (Not to exceed 1.40 F.T.E.). \$124,669

SECTION 1.015. — To the Board of Fund Commissioners
 For payment of arbitrage rebate and related expenses
 From General Revenue Fund. \$1E

SECTION 1.020. — To the Board of Fund Commissioners
 For all expenditures associated with refunding of currently outstanding debt
 From General Revenue Fund. \$1E

SECTION 1.025. — There is transferred out of the State Treasury,
 chargeable to the General Revenue Fund, Eighteen Million, Five
 Hundred Eighty-eight Thousand, Eight Hundred Twenty-one Dollars
 to the Fourth State Building Bond and Interest Fund for
 currently outstanding general obligations
 From General Revenue Fund. \$18,588,821

SECTION 1.030. — To the Board of Fund Commissioners
 For payment of interest and sinking fund requirements on Fourth State
 Building Bonds currently outstanding as provided by law
 From Fourth State Building Bond and Interest Fund. \$18,709,008

SECTION 1.035. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, Eighteen Million, Seven Hundred Thirty Thousand Dollars to the Water Pollution Control Bond and Interest Fund for currently outstanding general obligations	
From General Revenue Fund.	\$18,730,000
SECTION 1.036. — There is transferred out of the State Treasury, chargeable to the Water and Wastewater Loan Revolving Fund pursuant to Title 33, Chapter 26, Subchapter VI, Section 1383, US Code, Nineteen Million, Forty Thousand, One Hundred Sixty- five Dollars to the Water Pollution Control Bond and Interest Fund for currently outstanding general obligations	
From Water and Wastewater Loan Revolving Loan Fund.	\$19,040,165
SECTION 1.040. — To the Board of Fund Commissioners For payment of interest and sinking fund requirements on water pollution control bonds currently outstanding as provided by law	
From Water Pollution Control Bond and Interest Fund.	\$35,084,988
SECTION 1.045. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, Four Million, Fourteen Thousand, One Hundred Seventy-two Dollars to the Stormwater Control Bond and Interest Fund for currently outstanding general obligations	
From General Revenue Fund.	\$4,014,172
SECTION 1.050. — To the Board of Fund Commissioners For payment of interest and sinking fund requirements on stormwater control bonds to be outstanding as provided by law	
From Stormwater Control Bond and Interest Fund.	\$2,750,162
SECTION 1.055. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, Fifty Million, Five Hundred Thirty-two Thousand, One Hundred Thirty-five Dollars to the Third State Building Bond Interest and Sinking Fund for currently outstanding general obligations	
From General Revenue Fund.	\$50,532,135
SECTION 1.060. — To the Board of Fund Commissioners For payment of interest and sinking fund requirements on third state building bonds currently outstanding as provided by law	
From Third State Building Bond Interest and Sinking Fund.	\$50,711,833
SECTION 1.065. — To the Board of Fund Commissioners For the cost of issuing stormwater control and water pollution control bonds	
From Stormwater Control Fund.	\$150,000
From Water Pollution Control Fund.	<u>150,000</u>
Total.	\$300,000

BILL TOTALS

General Revenue.	\$91,989,799
Other Funds.	<u>19,040,165</u>
Total.	\$111,029,964

Approved June 26, 2002

HB 1102 [CCS SCS HCS HB 1102]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: STATE BOARD OF EDUCATION AND DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the State Board of Education and of the Department of Elementary and Secondary Education and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds and for the investment in registered bonds of the State Public School Fund by the State Board of Education for the period beginning July 1, 2002 and ending June 30, 2003.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2002 and ending June 30, 2003, as follows:

SECTION 2.005. — To the Department of Elementary and Secondary Education

For the Division of General Administration

Personal Service.	\$2,666,926
Personal Service and/or Expense and Equipment	123,709
Expense and Equipment.	<u>135,254</u>
From General Revenue Fund.	2,925,889

Personal Service.	1,069,834
Expense and Equipment and/or Program Distribution	1,179,070
Personal Service and/or Expense and Equipment.	<u>54,536</u>
From Federal Funds	2,303,440

Expense and Equipment	
From Lottery Proceeds Fund.	<u>110,880</u>

Expense and Equipment	
From Federal Funds	3,000,000

Personal Service.....	234,476
Personal Service and/or Expense and Equipment	11,846
Program Distribution and/or Expense and Equipment.	<u>2,682,888</u>
From Excellence in Education Fund.	<u>2,929,210</u>
Total (Not to exceed 104.65 F.T.E.).	\$11,269,419

SECTION 2.010.— To the Department of Elementary and Secondary Education
 For investments in registered federal, state, county, municipal, and
 school district bonds as provided by law
 From State Public School Fund (0 F.T.E.). \$10,000,000E

SECTION 2.015.— To the Department of Elementary and Secondary Education
 For construction and site acquisition costs to accommodate any
 reasonably anticipated net enrollment increase caused by any
 reduction or elimination of the voluntary transfer plan as
 approved by the United States Court of the Eastern District of
 Missouri pursuant to Senate Bill 781 (1998)
 From General Revenue Fund (0 F.T.E.). \$20,000,000

SECTION 2.020.— To the Department of Elementary and Secondary Education
 For distributions to the free public schools under the School
 Foundation Program as provided in Chapter 163, RSMo as follows:
 At least One Billion, Seven Hundred Ninety-six Million, Six
 Hundred Seventy-nine Thousand, Eighty-five Dollars
 (\$1,796,679,085) for the Equity Formula; and no more than: Three
 Hundred Fifty-four Million, Three Hundred Twelve Thousand, Six
 Hundred Thirty-six Dollars (\$354,312,636) for the Line 14 At-
 Risk Program; One Hundred Sixty-two Million, Sixty-seven
 Thousand, Seven Hundred Thirteen Dollars (\$162,067,713) for
 Transportation; One Hundred Forty-nine Million, Six Hundred
 Seventeen Thousand, Nine Hundred Eighty-two Dollars
 (\$149,617,982) for Special Education; Eleven Million, Ninety-six
 Thousand, Nine Hundred Twenty-five Dollars (\$11,096,925) for
 Remedial Reading; Sixty-nine Million, Six Hundred Twenty-one
 Thousand, Nine Hundred Ninety-five Dollars (\$69,621,995) for
 Early Childhood Special Education; Twenty-four Million, Eight
 Hundred Seventy Thousand, One Hundred Four Dollars (\$24,870,104)
 for Gifted Education; Thirty-eight Million, Four Hundred Fifty-
 four Thousand, Seven Hundred Seventy-four Dollars (\$38,454,774)
 for Career Ladder; Fifty-two Million, Eight Hundred Eighty
 Thousand, Four Hundred Twenty-eight Dollars (\$52,880,428) for
 Vocational Education; Thirty Million, Three Hundred Four
 Thousand, Six Hundred Fifty-one Dollars (\$30,304,651) for Early
 Childhood Development.
 From Outstanding Schools Trust Fund. \$492,371,792
 From State School Moneys Fund. 2,101,646,917
 From Lottery Proceeds Fund

From Early Childhood Development, Education and Care Fund. 88,240,365
 7,647,219
 For State Board of Education operated school programs
 Personal Service..... 29,423,936
 Personal Service and/or Expense and Equipment

Expense and Equipment.....	13,160,787
From General Revenue Fund.....	44,132,170

Personal Service.....	1,550,000
Personal Service and/or Expense and Equipment.....	78,985
Expense and Equipment.....	1,448,596
From Federal Funds.....	3,077,581

Expense and Equipment	
From Bingo Proceeds for Education Fund.....	1,707,167
Total (Not to exceed 923.72 F.T.E.).....	\$2,738,823,211

SECTION 2.021.— To the Department of Elementary and Secondary Education
For distributions to the free public schools under the School

Foundation Program as provided in Chapter 163, RSMo as follows:
Not more than Thirty-nine Million, Nine Hundred Eighty-one
Thousand, Four Hundred Fifty-six Dollars (\$39,981,456) for the
Equity Formula; and no more than: Four Million, Eighteen
Thousand, Five Hundred Forty-four Dollars (\$4,018,544) for the
Line 14 At-Risk Program; contingent upon passage and approval,
and signing into law of SB 1248 by the 91st General Assembly

From State School Moneys Fund.....	44,000,000
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SECTION 2.025.— To the Department of Elementary and Secondary Education
For professional development programs for educators, and Five Hundred

Thousand Dollars (\$500,000) for early grade literacy programs
offered at Southeast Missouri State University

From General Revenue Fund.....	\$105,000
From Federal Funds	50,000
From Lottery Proceeds Fund	145,000
From Outstanding Schools Trust Fund.....	250,000
Total (0 F.T.E.).....	\$550,000

SECTION 2.030.— To the Department of Elementary and Secondary Education
For the School Food Services Program to reimburse schools for
breakfasts and lunches

From General Revenue Fund.....	\$3,460,219
From Federal Funds	138,313,350E
Total (0 F.T.E.).....	\$141,773,569

SECTION 2.035.— To the Department of Elementary and Secondary Education
For lease purchases pursuant to Sections 166.131 and 166.300, RSMo,
pertaining to the School Building Revolving Fund

From School Building Revolving Fund (0 F.T.E.).....	\$1,500,000E
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SECTION 2.040.— To the Department of Elementary and Secondary Education
For advisors' salaries as provided in Section 169.580, RSMo,
pertaining to the Special School Advisors Retirement Supplement Program

From General Revenue Fund (0 F.T.E.).....	\$900
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SECTION 2.045.— To the Department of Elementary and Secondary Education
 For distributions to the public elementary and secondary schools in
 this state, pursuant to Chapters 149 and 163, RSMo, pertaining
 to the Fair Share Fund
 From Fair Share Fund (0 F.T.E.). \$22,929,326E

SECTION 2.050.— To the Department of Elementary and Secondary Education
 For distributions to the public elementary and secondary schools in
 this state, pursuant to Chapters 144, 163, and 164, RSMo,
 pertaining to the School District Trust Fund
 From School District Trust Fund (0 F.T.E.). \$691,456,241E

SECTION 2.055.— To the Department of Elementary and Secondary Education
 For the apportionment to school districts, and state board operated
 school programs for expense and equipment, one-half the amount
 accruing to the General Revenue Fund from the County Foreign
 Insurance Tax
 From General Revenue Fund (0 F.T.E.). \$74,225,850E

SECTION 2.060.— To the Department of Elementary and Secondary Education
 For costs associated with school district bonds
 From School District Bond Fund (0 F.T.E.). \$4,000,000

SECTION 2.065.— To the Department of Elementary and Secondary Education
 For receiving and expending donations and federal funds provided that
 the General Assembly shall be notified of the source of any new
 funds and the purpose for which they shall be expended, in
 writing, prior to the expenditure of said funds
 From Federal Funds and Other Funds (0 F.T.E.). \$15,000,000

SECTION 2.070.— To the Department of Elementary and Secondary Education
 For the Division of School Improvement
 Personal Service. \$1,580,277
 Personal Service and/or Expense and Equipment 82,843
 Expense and Equipment. 204,999
 From General Revenue Fund. 1,868,119

 Personal Service. 2,603,309
 Personal Service and/or Expense and Equipment 130,443
 Expense and Equipment. 1,126,077
 From Federal Funds 3,859,829

 Personal Service. 191,989
 Personal Service and/or Expense and Equipment 10,087
 Expense and Equipment. 28,120
 From Outstanding Schools Trust Fund. 230,196
 Total (Not to exceed 109.06 F.T.E.). 5,958,144

For the Division of Vocational and Adult Education
 Personal Service. 1,202,488
 Personal Service and/or Expense and Equipment 62,000
 Expense and Equipment. 157,048
 From General Revenue Fund. 1,421,536

Personal Service.	2,026,004
Personal Service and/or Expense and Equipment	101,300
Expense and Equipment.	<u>661,007</u>
From Federal Funds	<u>2,788,311</u>
Total (Not to exceed 88.00 F.T.E.)	4,209,847

For the Division of Special Education

Personal Service.	218,504
Personal Service and/or Expense and Equipment	11,500
Expense and Equipment.	<u>47,505</u>
From General Revenue Fund.	277,509

Personal Service.	1,544,204
Personal Service and/or Expense and Equipment	81,143
Expense and Equipment.	<u>590,842</u>
From Federal Funds	<u>2,216,189</u>
Total (Not to exceed 47.50 F.T.E.)	2,493,698

For the Division of Teacher Quality and Urban Education

Personal Service	1,064,827
Personal Service and/or Expense and Equipment	54,672
Expense and Equipment.	<u>100,923</u>
From General Revenue Fund.	1,220,422

Personal Service.	33,105
Personal Service and/or Expense and Equipment	1,705
Expense and Equipment	<u>381,661</u>
From Federal Funds	416,471

Personal Service.	76,106
Expense and Equipment and/or Program Distribution	4,006
Personal Service and/or Expense and Equipment.	<u>3,045</u>
From Outstanding Schools Trust Fund.	<u>83,157</u>
Total (Not to exceed 36.00 F.T.E.)	\$1,720,050

SECTION 2.071.— To the Department of Elementary and Secondary Education

For improving services to Missouri children through activities under the Goals 2000: Educate America Act	
From Federal Funds (0 F.T.E.)	\$2,000,000

SECTION 2.072.— To the Department of Elementary and Secondary Education

For the Division of School Improvement	
Expense and Equipment	
From Video Instructional Development & Educational Opportunity Fund (0 F.T.E.)	\$600,000

SECTION 2.075.— To the Department of Elementary and Secondary Education

For the Technology Grants Program and for planning and implementing
computer network infrastructure for public elementary and
secondary schools, including computer access to the Department
of Elementary and Secondary Education and to improve the use of
classroom technology

From General Revenue Fund.	\$6,969,696
From Federal Funds	12,162,366
From Lottery Proceeds Fund.	<u>7,000,000</u>
Total (0 F.T.E.).	\$26,132,062

SECTION 2.080.— To the Department of Elementary and Secondary Education
 For improving basic programs operated by local education agencies
 under Title I of the No Child Left Behind Act
 From Federal Funds (0 F.T.E.). \$190,000,000E

SECTION 2.085.— To the Department of Elementary and Secondary Education
 For the Reading First Grant Program under Title I of the No Child
 Left Behind Act
 From Federal Funds (0 F.T.E.). \$14,908,815E

SECTION 2.090.— To the Department of Elementary and Secondary Education
 For innovative educational program strategies under Title VI of the
 No Child Left Behind Act
 From Federal Funds (0 F.T.E.). \$11,000,000E

SECTION 2.095.— To the Department of Elementary and Secondary Education
 For programs for the gifted from interest earnings accruing in the
 Stephen Morgan Ferman Memorial for Education of the Gifted
 From State School Moneys Fund (0 F.T.E.). \$10,000E

SECTION 2.100.— To the Department of Elementary and Secondary Education
 For the Missouri Scholars and Fine Arts Academies
 From General Revenue Fund. \$631,319
 From Lottery Proceeds Fund 158,156
 Total (0 F.T.E.). \$789,475

SECTION 2.110.— To the Department of Elementary and Secondary Education
 For the High School Science, Mathematics, and Technology Institute,
 offered through the University of Missouri at Kansas City
 College of Arts and Sciences, and that 25 percent of the
 appropriated funds be expended for minority children
 From Healthy Families Trust Fund - Life Sciences Account (0 F.T.E.). \$100,000

SECTION 2.115.— To the Department of Elementary and Secondary Education
 For reimbursements to school districts for the Early Childhood
 Program, Hard-to-Reach Incentives, and Parent Education in
 conjunction with the Early Childhood Educational and Screening
 Program
 From General Revenue Fund. \$86,118
 From Federal Funds 824,000
 From State School Moneys Fund. 125,000

For grants to higher education institutions or area vocational
 technical schools for the Child Development Associate
 Certificate Program in collaboration with the Coordinating Board
 for Higher Education
 From Federal Funds 400,000

For grants to school districts under the Early Childhood Development,
Education and Care Program, including up to \$25,000 in expense
and equipment for program administration
From Early Childhood Development, Education and Care Fund. 15,136,800
Total (0 F.T.E.). \$16,571,918

SECTION 2.120.— To the Department of Elementary and Secondary Education
For the A+ Schools Program
From General Revenue Fund. \$ 9,828,514
From Lottery Proceeds Fund. 8,696,486
Total (0 F.T.E.). \$18,525,000

SECTION 2.125.— To the Department of Elementary and Secondary Education
For the Performance Based Assessment Program, provided that no
additional cost shall be incurred by local school districts
From General Revenue Fund. \$4,097,554
From Federal Funds 7,184,722
From Outstanding Schools Trust Fund. 128,125
From Lottery Proceeds Fund. 874,321
Total (0 F.T.E.). \$12,284,722

SECTION 2.130.— To the Department of Elementary and Secondary Education
For courses, exams, and other expenses that lead to high school
students receiving college credit
From Lottery Proceeds Fund (0 F.T.E.). \$711,786

SECTION 2.135.— To the Department of Elementary and Secondary Education
For school renovation grants
From Federal Funds (0 F.T.E.). \$14,252,588E

SECTION 2.140.— To the Department of Elementary and Secondary Education
For the Instructional Improvement Grants Program pursuant to Title II
Improving Teacher Quality
From Federal Funds (0 F.T.E.). \$74,348,890E

SECTION 2.145.— To the Department of Elementary and Secondary Education
For the Safe and Drug Free Schools Grants Program pursuant to Title
IV of the No Child Left Behind Act
From Federal Funds. \$9,600,000E

SECTION 2.150.— To the Department of Elementary and Secondary Education
For a safe schools initiative to include, but not be limited to, safe
school grants, alternative education program grants, equipment,
anti-violence curriculum development, and conflict resolution
From General Revenue Fund. \$5,300,000
From Lottery Proceeds Fund. 2,375,000
Total (0 F.T.E.). \$7,675,000

SECTION 2.155.— To the Department of Elementary and Secondary Education
For the Public Charter Schools Program
From Federal Funds (0 F.T.E.). \$2,432,000

SECTION 2.160.— To the Department of Elementary and Secondary Education
 For the state's portion of the scholarship program for teacher
 education students in approved programs at four-year colleges or
 universities in Missouri pursuant to the Excellence in Education Act
 From General Revenue Fund. \$249,000

For the state's portion for scholarships for minority students
 pursuant to Section 161.415, RSMo
 From Lottery Proceeds Fund 200,000
 Total (0 F.T.E.). \$449,000

SECTION 2.170.— To the Department of Elementary and Secondary Education
 For grants to public schools for whole-school, research-based reform
 programs
 From Federal Funds (0 F.T.E.). \$8,000,000E

SECTION 2.171.— To the Department of Elementary and Secondary Education
 For grants to rural and low income schools
 From Federal Funds (0 F.T.E.). \$2,100,000

SECTION 2.172.— To the Department of Elementary and Secondary Education
 For language acquisition pursuant to Title III of the No Child Left
 Behind Act
 From Federal Funds (0 F.T.E.). \$1,700,000

SECTION 2.175.— To the Department of Elementary and Secondary Education
 For Advanced Placement examination fees for eligible children of low-
 income families
 From Federal Funds. \$407,250

SECTION 2.180.— To the Department of Elementary and Secondary Education
 For the Refugee Children School Impact Grants Program
 From Federal Funds (0 F.T.E.). \$400,000

SECTION 2.185.— To the Department of Elementary and Secondary Education
 For character education initiatives
 From Lottery Proceeds Fund. \$250,000

SECTION 2.190.— To the Department of Elementary and Secondary Education
 For the Missouri State Action for Education Leadership Project
 From Federal Funds (0 F.T.E.). \$300,000

SECTION 2.195.— To the Department of Elementary and Secondary Education
 For the Division of Vocational Rehabilitation
 Personal Service. \$286,645
 Personal Service and/or Expense and Equipment 15,050
 Expense and Equipment. 17,379
 From General Revenue Fund. 319,074

Personal Service. 25,917,816
 Personal Service and/or Expense and Equipment 1,352,032
 Expense and Equipment. 3,848,132
 From Federal Funds. 31,117,980
 Total (Not to exceed 757.00 F.T.E.). \$31,437,054

SECTION 2.200.— To the Department of Elementary and Secondary Education
For the Vocational Rehabilitation Program

From General Revenue Fund.....	\$9,903,170
From Federal Funds	30,256,700
From Payments by the Department of Mental Health	1,000,000
From Lottery Proceeds Fund.	<u>1,400,000</u>
Total (0 F.T.E.).	\$42,559,870

SECTION 2.205.— To the Department of Elementary and Secondary Education
For the Disability Determination Program

From Federal Funds.	\$18,000,000
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SECTION 2.210.— To the Department of Elementary and Secondary Education
For the Personal Care Assistance Program

From General Revenue Fund.....	\$29,095,554
From Federal Funds	<u>39,588,342E</u>
Total (0 F.T.E.).	\$68,683,896

SECTION 2.215.— To the Department of Elementary and Secondary Education
For Independent Living Centers

From General Revenue Fund.....	\$2,537,042
From Federal Funds	1,592,546
From Independent Living Center Fund.....	<u>210,000</u>
Total (0 F.T.E.).	\$4,339,588

SECTION 2.220.— To the Department of Elementary and Secondary Education
For the Project SUCCESS Program

From Federal Funds (0 F.T.E.).....	\$500,000
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SECTION 2.225.— To the Department of Elementary and Secondary Education
For distributions to providers of vocational education programs

From Federal Funds (0 F.T.E.).....	\$32,064,693
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SECTION 2.230.— To the Department of Elementary and Secondary Education
For job training programs pursuant to the Workforce Investment Act

From Federal Funds (0 F.T.E.).....	\$6,797,937E
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SECTION 2.235.— To the Department of Elementary and Secondary Education
For distributions to educational institutions for the Adult Basic

Education Program	
From General Revenue Fund.....	\$4,279,293
From Federal Funds	12,500,000
From Outstanding Schools Trust Fund.	<u>525,313</u>
Total (0 F.T.E.).	\$17,304,606

SECTION 2.240.— To the Department of Elementary and Secondary Education
For a grant award program for literacy and family literacy providers
that offer services that are complementary to adult basic education

From General Revenue Fund (0 F.T.E.).	\$1,184,991
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SECTION 2.245.— To the Department of Elementary and Secondary Education
For the School Age Child Care Program

From Federal Funds (2 F.T.E.).....	\$6,478,758
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SECTION 2.250.— To the Department of Elementary and Secondary Education
For the Troops to Teachers Program

Personal Service.....	\$ 46,390
Expense and Equipment.....	<u>153,610</u>
From Federal Funds (Not to exceed 1.50 F.T.E.).....	\$200,000

SECTION 2.255.— To the Department of Elementary and Secondary Education
For the Special Education Program

From Federal Funds (0 F.T.E.).....	\$162,315,211E
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SECTION 2.260.— To the Department of Elementary and Secondary Education
For special education excess costs and severe disabilities services

From Federal Funds (0 F.T.E.).....	\$4,257,267E
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SECTION 2.265.— To the Department of Elementary and Secondary Education
For the First Steps Program

From General Revenue Fund.....	\$2,267,839
From Federal Funds.....	<u>10,506,837</u>
From Early Childhood Development, Education and Care Fund.....	<u>5,286,042</u>
Total (0 F.T.E.).....	\$18,060,718

SECTION 2.270.— To the Department of Elementary and Secondary Education
For payments to school districts for children in residential

placements through the Department of Mental Health or the
Division of Family Services pursuant to Section 167.126, RSMo

From General Revenue Fund.....	\$5,209,396
From Lottery Proceeds Fund.....	<u>2,083,935</u>
Total (0 F.T.E.).....	\$7,293,331

SECTION 2.275.— To the Department of Elementary and Secondary Education
For operational maintenance and repairs for State Board of Education

operated schools

From Facilities Maintenance Reserve Fund.....	\$57,950
From Lottery Proceeds Fund.....	<u>342,754</u>
Total (0 F.T.E.).....	\$400,704

SECTION 2.280.— To the Department of Elementary and Secondary Education
For the Missouri Special Olympics Program

From General Revenue Fund.....	\$100,000
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SECTION 2.285.— To the Department of Elementary and Secondary Education
For the Sheltered Workshops Program

From General Revenue Fund (0 F.T.E.).....	\$18,599,100
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SECTION 2.290.— To the Department of Elementary and Secondary Education
For payments to readers for blind or visually handicapped students in

elementary and secondary schools

From General Revenue Fund.....	\$14,000
From State School Moneys Fund.....	<u>25,000</u>
Total (0 F.T.E.).....	\$39,000

SECTION 2.295.— To the Department of Elementary and Secondary Education
For a task force on blind student academic and vocational performance
From General Revenue Fund. \$95,000

SECTION 2.300.— To the Department of Elementary and Secondary Education
For the Missouri School for the Deaf
From School for the Deaf Trust Fund (0 F.T.E.). \$25,000E

SECTION 2.305.— To the Department of Elementary and Secondary Education
For the Missouri School for the Blind
From School for the Blind Trust Fund (0 F.T.E.). \$1,500,000E

SECTION 2.310.— To the Department of Elementary and Secondary Education
For the State Schools for Severely Handicapped Children
From Handicapped Children's Trust Fund (0 F.T.E.). \$30,000E

SECTION 2.315.— To the Department of Elementary and Secondary Education
For the State Occupational Information Coordinating Committee
Personal Service
From General Revenue Fund. \$30,000
Personal Service. 104,500
Expense and Equipment. 146,510
From Federal Funds and Other Funds. 251,010
Total (Not to exceed 3.00 F.T.E.). \$281,010

SECTION 2.320.— To the Department of Elementary and Secondary Education
For the Missouri Commission for the Deaf
Personal Service. \$234,192
Expense and Equipment. 92,681
From General Revenue Fund. 326,873

Expense and Equipment
From Federal Funds 50,000
From Certification of Interpreters Fund. 100,000
Total (Not to exceed 7.00 F.T.E.). \$476,873

SECTION 2.325.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to
the General Revenue Fund, to the State School Moneys Fund.
(1) This transfer shall be decreased by the sum of the amounts in
Section 2.331 and/or Section 2.332, up to Eighty-nine Million,
Two Hundred Thousand (\$89,200,000), contingent upon the passage
and approval, and signing into law of SB 1248 by the 91st General
Assembly; (2) and this transfer shall be further decreased by
any amount Section 2.331 and/or Section 2.332 in excess of One
Hundred Thirty-three Million, Two Hundred Thousand Dollars
(\$133,200,000), contingent upon the passage and approval, and
signing into law of SB 1248 by the 91st General Assembly. The
total amount of this transfer shall not increase.
From General Revenue Fund. \$1,817,575,342

SECTION 2.330.— To the Department of Elementary and Secondary Education

Funds are to be transferred out of the State Treasury, chargeable to
the Gaming Proceeds for Education Fund, to the State School
Moneys Fund

From Gaming Proceeds for Education Fund. \$205,520,542E

SECTION 2.331.— To the Department of Elementary and Secondary Education

Funds are to be transferred out of the State Treasury, chargeable to
the Gaming Proceeds for Education Fund, to the State School
Moneys Fund contingent upon passage and approval and signing
into law of changes to Section 313.822, RSMo, by SB 1248 by the
91st General Assembly

From Gaming Proceeds for Education Fund. \$41,710,000

SECTION 2.332.— To the Department of Elementary and Secondary Education

Funds are to be transferred out of the State Treasury, chargeable to
the Schools of the Future Fund, to the State School Moneys Fund
contingent upon passage and approval and signing into law of SB
1248 by the 91st General Assembly

From Schools of the Future Fund. \$126,517,000

SECTION 2.333.— To the Department of Elementary and Secondary

Education Funds are to be transferred out of the State Treasury,
chargeable to the General Revenue Fund, to the Schools of the
Future Fund contingent upon the passage and approval and signing
into law of SB 1248 by the 91st General Assembly

From General Revenue Fund. \$126,517,000

SECTION 2.335.— To the Department of Elementary and Secondary Education

Funds are to be transferred out of the State Treasury, chargeable to
the General Revenue Fund, to the Outstanding Schools Trust Fund

From General Revenue Fund. \$421,300,000E

SECTION 2.340.— To the Department of Elementary and Secondary Education

Funds are to be transferred out of the State Treasury, chargeable to
the Gaming Proceeds for Education Fund, to the School District
Bond Fund

From Gaming Proceeds for Education Fund. \$2,271,458

BILL TOTALS

General Revenue.. . . .	\$2,616,153,489
Federal Funds.	880,523,083
Other Funds.	<u>1,151,748,846</u>
Total.	<u>\$4,648,425,418</u>

Approved June 26, 2002

HB 1103 [CCS SCS HCS HB 1103]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF HIGHER EDUCATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Higher Education and the several divisions, programs, and institutions of higher education included therein to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2002 and ending June 30, 2003.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the state treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2002 and ending June 30, 2003, as follows:

SECTION 3.005.— To the Department of Higher Education

For Higher Education Coordination

Personal Service.	\$ 727,590
Expense and Equipment.	<u>263,301</u>
From General Revenue Fund.	990,891

For regulation of proprietary schools as provided in Section 173.600, RSMo

Personal Service.	147,509
Expense and Equipment.	<u>49,433</u>
From General Revenue Fund.	196,942

For MOSTARS grant and scholarship program administration

Personal Service.	218,036
Expense and Equipment.	<u>130,162</u>
From General Revenue Fund.	<u>348,198</u>
Total (Not to exceed 23.40 F.T.E.).	\$1,536,031

SECTION 3.010.— To the Department of Higher Education

For indemnifying individuals as a result of improper actions on the
part of proprietary schools as provided in Section 173.612, RSMo

From Proprietary School Bond Fund (0 F.T.E.).	\$100,000
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SECTION 3.015.— To the Department of Higher Education

For annual membership in the Midwestern Higher Education Commission

From General Revenue Fund (0 F.T.E.).	\$82,500
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SECTION 3.020.— To the Department of Higher Education

For the Missouri Learners' Network

From Federal Funds (0 F.T.E.).	\$410,800
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SECTION 3.025.— To the Department of Higher Education
 For the State Anatomical Board
 From General Revenue Fund (0 F.T.E.). \$3,069

SECTION 3.030.— To the Department of Higher Education
 For the Eisenhower Science and Mathematics Program and the Teacher
 and Principal Training and Recruiting Fund Program
 Personal Service. \$56,825
 Expense and Equipment 20,400
 Federal Education Programs 1,698,000
 From Federal Funds (Not to exceed 1.00 F.T.E.). \$1,775,225

SECTION 3.035.— To the Department of Higher Education
 For receiving and expending donations and federal funds provided that
 the General Assembly shall be notified of the source of any new
 funds and the purpose for which they shall be expended, in
 writing, prior to the expenditure of said funds
 From Federal Funds and Other Funds (0 F.T.E.). \$2,000,000

SECTION 3.040.— To the Department of Higher Education
 Funds are to be transferred out of the state treasury, chargeable to
 the General Revenue Fund, to the Academic Scholarship Fund
 From General Revenue Fund. \$15,787,000

SECTION 3.045.— To the Department of Higher Education
 For the Higher Education Academic Scholarship Program pursuant to
 Chapter 173, RSMo
 From Academic Scholarship Fund (0 F.T.E.). \$15,787,000E

SECTION 3.050.— To the Department of Higher Education
 Funds are to be transferred out of the state treasury, chargeable to
 the funds listed below, to the Student Grant Fund
 From General Revenue Fund. \$15,578,436
 From Federal Funds 1,000,000E
 From Missouri Student Grant Program Gift Fund.. . . . 50,000E
 Total (0 F.T.E.). \$16,628,436

SECTION 3.055.— To the Department of Higher Education
 For the Charles Gallagher Grants (Student Grants) Program pursuant to
 Chapter 173, RSMo
 From Student Grant Fund (0 F.T.E.). \$16,628,436E

SECTION 3.060.— To the Department of Higher Education
 Funds are to be transferred out of the state treasury, chargeable to
 the Lottery Proceeds Fund, to the Missouri College Guarantee
 Fund
 From Lottery Proceeds Fund. \$2,750,000

SECTION 3.065.— To the Department of Higher Education
 For the Missouri College Guarantee Program pursuant to Chapter 173,
 RSMo
 From Missouri College Guarantee Fund (0 F.T.E.). \$8,460,000E

SECTION 3.070.— To the Department of Higher Education
Funds are to be transferred out of the state treasury, chargeable to
the General Revenue Fund, to the Advantage Missouri Trust Fund
From General Revenue Fund. \$1,060,000

SECTION 3.075.— To the Department of Higher Education
For the Advantage Missouri Program pursuant to Chapter 173, RSMo
From Advantage Missouri Trust Fund (0 F.T.E.). \$1,060,000

SECTION 3.080.— To the Department of Higher Education
For the Public Service Officer or Employee Survivor Grant Program
pursuant to Section 173.260, RSMo
From General Revenue Fund (0 F.T.E.). \$45,000

SECTION 3.085.— To the Department of Higher Education
For the Vietnam Veterans Survivors Scholarship Program pursuant to
Section 173.235, RSMo
From General Revenue Fund (0 F.T.E.). \$12,000

SECTION 3.090.— To the Department of Higher Education
Funds are to be transferred out of the state treasury, chargeable to
the General Revenue Fund, to the Marguerite Ross Barnett
Scholarship Fund
From General Revenue Fund. \$500,000

SECTION 3.095.— To the Department of Higher Education
For the Marguerite Ross Barnett Scholarship Program pursuant to
Section 173.262, RSMo
From Marguerite Ross Barnett Scholarship Fund (0 F.T.E.). \$500,000E

SECTION 3.100.— To the Department of Higher Education
For the GEAR UP Program
Personal Service. \$252,560
Expense and Equipment 604,480
Federal Education Programs. 697,572
From Federal Funds 1,554,612

For scholarships
From GEAR UP Scholarship Fund. 200,000E
Total (Not to exceed 6.50 F.T.E.). \$1,754,612

SECTION 3.105.— To the Department of Higher Education
For return of funds to the U.S. Department of Education
From Higher Education P.L. 105-33 recall account (0 F.T.E.). \$32,421,670

SECTION 3.110.— To the Department of Higher Education
For the Missouri Guaranteed Student Loan Program
Personal Service. \$2,119,605
Expense and Equipment 8,382,382
Payment of fees for collection of defaulted loans 4,000,000E
Payment of penalties to the federal government associated with
late deposit of default collections. 1,000,000
From Guaranty Agency Operating Fund. 15,501,987

Personal Service.....	87,920
Expense and Equipment.....	<u>2,612,500</u>
From U.S. Department of Education/Coordinating Board for Higher Education P.L. 105-33 interest account.....	<u>2,700,420</u>
Total (Not to exceed 59.33 F.T.E.).....	\$18,202,407

SECTION 3.115.— To the Department of Higher Education

For the E-Government Initiative

Personal Service.....	\$371,000
Expense and Equipment ..	<u>1,014,400</u>
From Guaranty Agency Operating Fund (Not to exceed 6.00 F.T.E.).....	\$1,385,400

SECTION 3.120.— To the Department of Higher Education

Funds are to be transferred out of the state treasury, chargeable to
the Federal Student Loan Reserve Fund, to the Guaranty Agency
Operating Fund

From Federal Student Loan Reserve Fund.....	\$8,000,000E
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SECTION 3.125.— To the Department of Higher Education

For the purchase of defaulted loans, payment of default aversion
fees, reimbursement to the federal government, and investment of
funds in the Federal Student Loan Reserve Fund

From Federal Student Loan Reserve Fund (0 F.T.E.).....	\$85,000,000
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SECTION 3.130.— To the Department of Higher Education

For the payment of refunds set off against debt as required by
Section 143.786, RSMo

From Debt Offset Escrow Fund (0 F.T.E.).....	\$750,000E
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SECTION 3.135.— To the Department of Higher Education

Funds are to be transferred out of the state treasury, chargeable to
the Guaranty Agency Operating Fund, to the Federal Student Loan
Reserve Fund

From Guaranty Agency Operating Fund.....	\$2,000,001E
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SECTION 3.140.— To the Department of Higher Education

For distribution to community colleges as provided in Section
163.191, RSMo

From General Revenue Fund.....	\$89,222,333
From Lottery Proceeds Fund	4,364,239

For program improvements in workforce preparation with the emphasis
to provide education and training at community colleges for
unemployed and under-employed citizens

From General Revenue Fund.....	1,800,000
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For selected out-of-district courses

From General Revenue Fund.....	1,287,509
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For workforce preparation projects

From General Revenue Fund.....	16,506,648
From Lottery Proceeds Fund	1,332,353

For Regional Technical Education Initiatives
 From General Revenue Fund..... 22,387,500
 Total (0 F.T.E.). \$136,900,582

SECTION 3.145.— To the Department of Higher Education

For community colleges
 For the payment of refunds set off against debt as required by
 Section 143.786, RSMo
 From Debt Offset Escrow Fund..... \$250,000E

SECTION 3.150.— To Linn State Technical College

All Expenditures
 From General Revenue Fund..... \$4,689,475

For the payment of refunds set off against debt as required by
 Section 143.786, RSMo
 From Debt Offset Escrow Fund..... 30,000E
 Total. \$4,719,475

SECTION 3.155.— To Central Missouri State University

All Expenditures
 From General Revenue Fund..... \$50,337,422
 From Lottery Proceeds Fund 5,260,277

For the payment of refunds set off against debt as required by
 Section 143.786, RSMo
 From Debt Offset Escrow Fund..... 75,000E
 Total. \$55,672,699

SECTION 3.160.— To Southeast Missouri State University

All Expenditures
 From General Revenue Fund..... \$40,622,872
 From Lottery Proceeds Fund 4,650,637

For the payment of refunds set off against debt as required by
 Section 143.786, RSMo
 From Debt Offset Escrow Fund..... 75,000E
 Total. \$45,348,509

SECTION 3.165.— To Southwest Missouri State University

All Expenditures
 From General Revenue Fund..... \$71,690,544
 From Lottery Proceeds Fund 8,604,082

For the payment of refunds set off against debt as required by
 Section 143.786, RSMo
 From Debt Offset Escrow Fund..... 75,000E
 Total. \$80,369,626

SECTION 3.170.— To Lincoln University

All Expenditures
 From General Revenue Fund..... \$15,556,409
 From Lottery Proceeds Fund 1,741,696

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund. 75,000E

Total. \$17,373,105

SECTION 3.175.— To Truman State University

All Expenditures

From General Revenue Fund. \$38,273,114

From Lottery Proceeds Fund 3,835,780

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund. 75,000E

Total. \$42,183,894

SECTION 3.180.— To Northwest Missouri State University

All Expenditures

From General Revenue Fund. \$26,254,372

From Lottery Proceeds Fund 2,737,092

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund. 75,000E

Total. \$29,066,464

SECTION 3.185.— To Missouri Southern State College

All Expenditures

From General Revenue Fund. \$17,258,280

From Lottery Proceeds Fund 1,953,571

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund. 75,000E

Total. \$19,286,851

SECTION 3.190.— To Missouri Western State College

All Expenditures

From General Revenue Fund. \$17,764,363

From Lottery Proceeds Fund 1,951,747

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund. 75,000E

Total. \$19,791,110

SECTION 3.195.— To Harris-Stowe State College

All Expenditures

From General Revenue Fund. \$9,392,620

From Lottery Proceeds Fund 740,704

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund. 75,000E

Total. \$10,208,324

SECTION 3.200.— To the University of Missouri
For operation of its various campuses and programs

All Expenditures
From General Revenue Fund. \$376,760,320
From Lottery Proceeds Fund 34,387,239

For the payment of refunds set off against debt as required by
Section 143.786, RSMo

From Debt Offset Escrow Fund. 200,000E
Total. \$411,347,559

SECTION 3.205.— To the University of Missouri
For the Missouri Bibliographic and Information User System (MOBIUS)

All Expenditures
From General Revenue Fund. \$649,539

SECTION 3.210.— To the University of Missouri
For the Missouri Research and Education Network (MOREnet)

All Expenditures
From General Revenue Fund. \$10,216,571

SECTION 3.215.— To the University of Missouri
For the University of Missouri Hospital and Clinics

All Expenditures
From General Revenue Fund. \$8,911,671

SECTION 3.220.— To the University of Missouri
For the Ellis Fischel Cancer Center

All Expenditures
From General Revenue Fund. \$4,223,786

SECTION 3.225.— To the University of Missouri
For the Missouri Rehabilitation Center

All Expenditures
From General Revenue Fund. \$10,116,691

SECTION 3.230.— To the University of Missouri
For Alzheimers disease research

All Expenditures
From General Revenue Fund. \$227,375

SECTION 3.235.— To the University of Missouri
For a program of research into spinal cord injuries

All Expenditures
From Spinal Cord Injury Fund. \$375,000

SECTION 3.240.— To the University of Missouri
For the Missouri Institute of Mental Health

All Expenditures
From General Revenue Fund. \$2,299,850

SECTION 3.245.— To the University of Missouri

For the treatment of renal disease in a statewide program

All Expenditures

From General Revenue Fund. \$4,016,774

SECTION 3.250.— To the University of Missouri

For the State Historical Society

All Expenditures

From General Revenue Fund. \$922,601

SECTION 3.255.— To the Board of Curators of the University of Missouri

For investment in registered federal, state, county, municipal, or

school district bonds as provided by law

From State Seminary Fund. \$1,500,000

SECTION 3.260.— To the Board of Curators of the University of Missouri

For the use of the University of Missouri

From State Seminary Moneys Fund, Income from Investments. \$250,000

BILL TOTALS

General Revenue. \$875,992,675

Federal Funds. 6,740,637

Other Funds. 213,793,894

Total. \$1,096,527,206

Approved June 26, 2002

HB 1104 [CCS SCS HCS HB 1104]**EXPLANATION** — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**APPROPRIATIONS: DEPARTMENT OF REVENUE AND THE DEPARTMENT OF TRANSPORTATION.**

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Revenue and the Department of Transportation, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2002 and ending June 30, 2003.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the state treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2002 and ending June 30, 2003, as follows:

SECTION 4.005.— To the Department of Revenue

For the Division of Administration

Personal Service.	\$3,123,558
Personal Service and/or Expense and Equipment	164,398
Expense and Equipment.	<u>391,586</u>
From General Revenue Fund.	3,679,542

Expense and Equipment.	70,000
From Federal Funds	<u>70,000</u>

Expense and Equipment.	10,800
From Division of Aging Elderly Home Delivered Meals Trust Fund	<u>10,800</u>

Personal Service.	66,793
Personal Service and/or Expense and Equipment	3,515
Expense and Equipment.	<u>29,636</u>
From Motor Vehicle Commission Fund	99,944

Personal Service.	161,621
Personal Service and/or Expense and Equipment	8,506
Expense and Equipment.	<u>125,550</u>
From Department of Revenue Information Fund.	295,677

Personal Service.	4,857,008
Personal Service and/or Expense and Equipment	255,632
Expense and Equipment.	<u>1,471,895</u>
From State Highways and Transportation Department Fund.	<u>6,584,535</u>
Total (Not to exceed 235.87 F.T.E.).	10,740,498

For the Division of Taxation

Personal Service.	23,152,807
Personal Service and/or Expense and Equipment	1,218,569
Expense and Equipment.	<u>5,826,607</u>
From General Revenue Fund.	30,197,983

Personal Service.	39,603
Personal Service and/or Expense and Equipment	2,084
Expense and Equipment.	<u>4,365</u>
From Health Initiatives Fund	46,052

Personal Service.	10,804
From Division of Aging Elderly Home Delivered Meals Trust Fund	<u>10,804</u>

Personal Service.	21,380
Personal Service and/or Expense and Equipment	1,125
Expense and Equipment.	<u>1,110</u>
From Petroleum Tank Storage Insurance Fund	23,615

Personal Service.	434,189
Personal Service and/or Expense and Equipment	22,852
Expense and Equipment.	<u>49,013</u>
From Conservation Commission Fund.	506,054

Personal Service.....	2,146,727
Personal Service and/or Expense and Equipment	112,986
Expense and Equipment.....	<u>604,833</u>
From State Highways and Transportation Department Fund	2,864,546

Personal Service.....	26,467
Personal Service and/or Expense and Equipment	1,393
Expense and Equipment.....	<u>2,949</u>
From Petroleum Inspection Fund.....	<u>30,809</u>
Total (Not to exceed 905.84 F.T.E.).....	33,679,863

For the Motor Vehicle/Drivers License Central Office and Branch Offices

Personal Service.....	195,903
Personal Service and/or Expense and Equipment	10,311
Expense and Equipment.....	<u>20,757</u>
From General Revenue Fund.....	226,971

Personal Service.....	698,847
Personal Service and/or Expense and Equipment	8,281
Expense and Equipment.....	<u>2,702,325</u>
From Federal Funds	3,409,453

Personal Service.....	236,008
Personal Service and/or Expense and Equipment	12,421
Expense and Equipment.....	<u>318,760</u>
From Motor Vehicle Commission Fund	567,189

Personal Service.....	231,881
Personal Service and/or Expense and Equipment	12,204
Expense and Equipment.....	<u>230,871</u>
From Department of Revenue Information Fund.....	474,956

Personal Service.....	17,473,179
Personal Service and/or Expense and Equipment	919,641
Expense and Equipment.....	<u>13,355,548</u>
From State Highways and Transportation Department Fund	<u>31,748,368</u>
Total (Not to exceed 777.81 F.T.E.).....	<u>36,426,937</u>

Section Total..... \$80,847,298

SECTION 4.010.— To the Department of Revenue

For the Division of Administration

For postage

Expense and Equipment	
From General Revenue Fund.....	\$3,212,164
From Health Initiatives Fund	4,350
From Department of Revenue Information Fund.....	158,731
From State Highways and Transportation Department Fund	<u>4,439,640</u>
Total (0 F.T.E.).....	\$7,814,885

SECTION 4.014.— To the Department of Revenue

To pay costs of printing drivers license manuals in a foreign language

Expense and Equipment

From Department of Revenue Information Fund (0 F.T.E.). \$20,400

SECTION 4.015.— To the Department of Revenue

For the Highway Reciprocity Commission

Personal Service. \$993,732

Expense and Equipment. 584,573

From State Highways and Transportation Department Fund (Not to

exceed 35.00 F.T.E.). \$1,578,305

SECTION 4.025.— To the Department of Revenue

For the State Tax Commission

Personal Service. \$2,861,540

Expense and Equipment. 441,258

From General Revenue Fund (Not to exceed 73.75 F.T.E.). \$3,302,798

SECTION 4.030.— To the Department of Revenue

For refunds for overpayment or erroneous payment of any tax or any

payment that is credited to the General Revenue Fund

From General Revenue Fund (0 F.T.E.). \$1,110,600,000E

SECTION 4.035.— To the Department of Revenue

For refunds for overpayment or erroneous payment of any tax or any

payment credited to Federal and Other Funds

From Federal and Other Funds (0 F.T.E.). \$75,000E

SECTION 4.037.— There is transferred out of the State Treasury,

chargeable to various funds, such amounts as are necessary for

refunds required by Article X, Section 18 (b), Constitution of

Missouri, to the General Revenue Fund

From Vocational Rehabilitation-Federal Funds. \$7E

From Elementary and Secondary Education-Federal Funds and Other Funds. 115E

From Division of Youth Services-Federal Funds and Other Funds. 2E

From Public Defender-Federal Funds and Other Funds 3E

From Juvenile Accountability Incentive Block Grant 19E

From Facilities Maintenance Reserve Fund 136E

From Department of Transportation-Federal Funds and Other Funds. 7E

From Department of Corrections-Federal Funds 8E

From Department of Revenue-Federal Funds 1E

From Utilicare Stabilization Fund. 395E

From Department of Natural Resources-Federal Funds and Other Funds 6E

From Federal Reimbursement Allowance Fund. 13,767E

From Department of Health-Federal Funds and Other Funds. 165E

From Department of Mental Health-Federal Funds 13E

From Department of Public Safety-Federal Funds 90E

From Department of Social Services-Federal Funds and Other Funds 1E

From Division of Family Services Donations Fund. 109E

From Missouri Humanities Council Trust Fund. 12E

From Governor's Committee on Employment of the Handicapped-Federal Funds 1E

From Federal Funds and Other Funds 21E

From Federal Drug Seizure Fund	64E
From Nursing Facility Federal Reimbursement Allowance Fund	5,129E
From Post Closure Fund	24E
From Water Pollution Control Bond and Interest Fund-Series B 1992.	234E
From Water Pollution Control Bond and Interest Fund-Series A 1992.	286E
From Water Pollution Control Bond and Interest Fund-Series B&C 1991.	193E
From Water Pollution Control Bond and Interest Fund-Series A 1993.	99E
From Water Pollution Control Bond and Interest Fund-Series B 1993.	382E
From Third State Building Bond Interest and Sinking Fund-Series A&B 1991	482E
From Third State Building Bond Interest and Sinking Fund-Series A 1992	1,286E
From Third State Building Bond Interest and Sinking Fund-Series A 1993	718E
From Water Pollution Control Bond and Interest Fund-Series A 1995.	108E
From Water Pollution Control Bond and Interest Fund-Series A 1996.	127E
From Water Pollution Control Bond and Interest Fund-Series A 1997.	45E
From Fourth State Building Bond and Interest Fund-Series A 1995.	269E
From Fourth State Building Bond and Interest Fund-Series A 1996.	455E
From Fourth State Building Bond and Interest Fund-Series A 1998.	65E
From Motorcycle Safety Trust Fund.	3E
From Hearing Instrument Specialist Fund.	56E
From Compulsive Gamblers Fund.	86E
From Missouri Housing Trust Fund	3,751E
From Residential Mortgage Licensing Fund	185E
From Missouri Arts Council Trust Fund.	610E
From Board of Geologist Registration Fund.	79E
From Missouri Commission for the Deaf Board of Certification of Interpreters Fund.	45E
From Secretary of State's Technology Trust Fund Account	1,825E
From Missouri National Guard Training Site Fund.	186E
From Statewide Court Automation Fund	3,637E
From Nursing Facility Quality of Care Fund	818E
From Health Initiatives Fund	26,224E
From Family Support Loan Program Fund.	17E
From School Building Revolving Fund.	69E
From Peace Officers Standards and Training Commission Fund	932E
From Independent Living Center Fund.	179E
From Gaming Commission Fund.	9,950E
From Outstanding Schools Trust Fund.	15,524E
From Mental Health Earnings Fund	1,282E
From Grade Crossing Safety Account Fund.	877E
From Animal Health Laboratory Fee Fund	250E
From Mammography Fund.	74E
From Animal Care Reserve Fund.	216E
From Division of Aging Elderly Home Delivered Meals Trust Fund	8E
From Highway Patrol Inspection Fund.	873E
From Missouri Public Health Services Fund.	1,258E
From Livestock Brands Fund	25E
From Veterans' Commission Capital Improvement Trust Fund	1,865E
From State Road Fund	15,821E
From Water Pollution Control Fund-Series A 1998-37C.	484E
From Water Pollution Control Fund Series A 1998-37E.	1,039E
From Fourth State Building Fund-Series A 1998.	2,768E
From Commodity Council Merchandising Fund.	4,027E

From Federal Surplus Property Fund	1,514E
From Single-Purpose Animal Facilities Loan Program Fund.. . . .	110E
From State Fair Fees Fund.. . . .	2,352E
From Agricultural Product Utilization Grant Fund	4E
From State Parks Earnings Fund	5,642E
From Natural Resources Revolving Services Fund	341E
From Historic Preservation Revolving Fund.	21E
From Missouri Veterans' Homes Fund	7,764E
From State Facility Maintenance and Operation Fund	161E
From Office of Administration Revolving Administrative Trust Fund.	8,515E
From Working Capital Revolving Fund.	1,682E
From Microfilm Revolving Trust Fund.. . . .	1E
From House of Representatives Revolving Fund	16E
From Supreme Court Publications Revolving Fund	87E
From Adjutant General Revolving Fund	46E
From Senate Revolving Fund	8E
From Inmate Revolving Fund	2,772E
From Department of Social Services Administrative Trust Fund	86E
From Statutory Revision Fund	141E
From Department of Economic Development Administrative Fund.. . . .	13E
From Division of Credit Unions Fund.	686E
From Division of Savings and Loan Supervision Fund	31E
From Division of Finance Fund.	5,774E
From Insurance Examiners Fund.	5,545E
From Natural Resources Protection Fund	236E
From Deaf Relay Service and Equipment Distribution Program Fund.	4,129E
From Real Estate Appraisers Fund	235E
From Endowed Care Cemetery Audit Fund.	110E
From Missouri Community College Job Training Program Fund.	6,902E
From Professional and Practical Nursing Student Loan and Nurse Loan Repayment Fund.	316E
From Department of Insurance Dedicated Fund.	6,233E
From International Promotions Revolving Fund	27E
From Natural Resources Protection Fund-Water Pollution Permit Fee Subaccount.	3,990E
From Solid Waste Management Fund-Scrap Tire Subaccount	1,486E
From Solid Waste Management Fund	6,947E
From Aquaculture Marketing Development Fund.	9E
From Clinical Social Workers Fund.	230E
From Metallic Minerals Waste Management Fund	80E
From Landscape Architectural Council Fund.	18E
From Local Records Preservation Fund	1,249E
From Veterans' Trust Fund.	18E
From State Committee of Psychologists Fund	292E
From Livestock Sales and Markets Fees Fund	11E
From Manufactured Housing Fund	417E
From Natural Resources Protection Fund-Air Pollution Asbestos Fee Subaccount.	232E
From Petroleum Storage Tank Insurance Fund	14,496E
From Underground Storage Tank Regulation Program Fund.	431E
From Chemical Emergency Preparedness Fund.. . . .	575E
From Motor Vehicle Commission Fund	744E

From Health Spa Regulatory Fund.	4E
From State Forensic Laboratory Fund.	201E
From Services to Victims' Fund	2,242E
From Natural Resources Protection Fund-Air Pollution Permit Fee Subaccount.	5,341E
From Children's Service Commission Fund.	1E
From Water and Wastewater Loan Revolving Fund.	6,571E
From Attorney General's Court Costs Fund	12E
From Missouri Breeders Fund.	3E
From Public Service Commission Fund.. . . .	10,659E
From Parks Sales Tax Fund.	8E
From Apple Merchandising Fund.	2E
From State School Moneys Fund.	46,498E
From Department of Revenue Information Fund.	2,344E
From Blind Pension Fund.	13,761E
From Livestock Dealer Law Enforcement and Administration Fund.	3E
From Board of Accountancy Fund	468E
From Board of Barber Examiners Fund.. . . .	140E
From Board of Podiatric Medicine Fund.	42E
From Board of Chiropractic Examination Fund.	223E
From Merchandising Practices Revolving Fund.	647E
From Board of Cosmetology Fund	926E
From Board of Embalmers and Funeral Directors Fund	383E
From Board of Registration for Healing Arts Fund	2,840E
From Board of Nursing Fund	1,504E
From Board of Optometry Fund	102E
From Board of Pharmacy Fund.	924E
From Missouri Real Estate Commission Fund.	1,447E
From Veterinary Medical Board Fund	276E
From State Highways and Transportation Department Fund	114,475E
From Milk Inspection Fees Fund	1,134E
From Department of Health Document Services Fund	136E
From Grain Inspection Fees Fund.	1,192E
From Petition Audit Revolving Trust Fund	109E
From Water and Wastewater Loan Fund.	56E
From Tourism Marketing Fund.	1E
From Excellence in Education Fund.	776E
From Workers' Compensation Fund.	15,665E
From Second Injury Fund.	21,191E
From State Environmental Improvement Authority	1E
From Department of Health-Donated Fund	598E
From Railroad Expense Fund	590E
From Water Well Drillers Fund.	398E
From Petroleum Inspection Fund	1,444E
From Attorney General's Antitrust Fund	133E
From Energy Set-Aside Program Fund	906E
From State Land Survey Program Fund.. . . .	1,249E
From Petroleum Violation Escrow Fund	988E
From Legal Defense and Defender Fund	665E
From Criminal Record System Fund	1,869E
From Committee on Professional Counselors Fund	264E
From Motor Fuel Tax Fund	481,270E

From Highway Patrol Academy Fund	293E
From Hazardous Waste Fund.	873E
From Dental Board Fund	525E
From State Board of Architects, Engineers, and Land Surveyors Fund	655E
From Safe Drinking Water Fund.	2,302E
From Missouri Office of Prosecution Services Fund.	160E
From Crime Victims' Compensation Fund.	3,814E
From Marketing Development Fund.	371E
From Coal Mine Land Reclamation Fund	127E
From Fair Share Fund	19,970E
From Hazardous Waste Remedial Fund	2,151E
From Missouri Air Pollution Control Fund	763E
From Athletic Fund	315E
From Children's Trust Fund	1,341E
From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund.	4,120E
From Abandoned Mine Reclamation Fund	24E
From Meramac-Onondaga State Parks Fund	41E
From Proceeds of Surplus Property Sales Fund	294E
From Proprietary School Bond Fund.	4E
From Confederate Memorial Park Fund.	5E
From Marital and Family Therapists Fund.	19E
From Organ Donor Program Fund.	298E
From Child Labor Enforcement Fund.	46E
From Inmate Incarceration Reimbursement Act Revolving Fund	37E
From Secretary of State's Investor Education Fund.	51E
From Property Reuse Fund	149E
From Respiratory Care Practitioners Fund	68E
From Concentrated Animal Feeding Operation Indemnity Fund.	24E
From State Document Preservation Fund.	9E
From Light Rail Safety Fund.	1E
From State Transportation Assistance Revolving Fund.	43E
From Missouri Office of Prosecution Services Revolving Fund.	25E
From Missouri Board of Occupational Therapy Fund	133E
From Domestic Relations Resolution Fund.	72E
From Correctional Substance Abuse Earnings Fund.	7E
From Missouri Wine Marketing and Research Development Fund	3E
From Missouri College Guarantee Fund	3E
From Early Childhood Development, Education and Care Fund.	25E
From Escheats Fund	592E
From Abandoned Fund.	10,150E
From Champ W. Smith & Mary C. Smith Memorial Endowment Trust Fund.	17E
From Missouri National Guard Trust Fund.	5E
From Agriculture Development Fund.	31E
From Mined Land Reclamation Fund	363E
From Babler State Park Fund.	253E
From School for the Blind Trust Fund	1,201E
From School for the Deaf Trust Fund.	3E
From Budget Stabilization Fund	17,382E
From Institution Gift Trust Fund	4E
From Mental Health Institution Gift Trust Fund	5,037E
From Secretary of State-Wolfner State Library Fund	30E
From Secretary of State Institution Gift Trust Fund.	40E

From Special Employment Security Fund.	629E
From Crippled Children Fund.	3E
From State Fair Trust Fund	3E
From Aviation Trust Fund	1,395E
From Office of Administration-Federal Funds and Other Funds.	1E
Total.	\$1,031,594

SECTION 4.040.— To the Department of Revenue
 For the payment of refunds as required by Article X, Section 18 (b),
 Constitution of Missouri
 From General Revenue Fund. \$5,950,034

SECTION 4.045.— To the Department of Revenue
 For the state's share of the costs and expenses incurred pursuant to
 an approved assessment and equalization maintenance plan as
 provided by Chapter 137, RSMo
 From General Revenue Fund. \$16,218,433

SECTION 4.050.— To the Department of Revenue
 For state costs for county assessor and assessor-elect certification
 From General Revenue Fund. \$100,800

SECTION 4.055.— To the Department of Revenue
 For apportionment to the several counties and the City of St. Louis
 all amounts accruing to the General Revenue Fund from the County
 Stock Insurance Tax
 From General Revenue Fund. \$150,000E

SECTION 4.060.— To the Department of Revenue
 For the purpose of refunding any tax or fee credited to the State
 Highways and Transportation Department Fund
 From State Highways and Transportation Department Fund. \$2,147,711E

SECTION 4.065.— To the Department of Revenue
 For payment of fees for entry of records into the federal Commercial
 Drivers' Licensing Information System
 Expense and Equipment
 From State Highways and Transportation Department Fund. \$275,000

SECTION 4.070.— To the Department of Revenue
 For the Problem Driver Pointer System
 Expense and Equipment
 From State Highways and Transportation Department Fund. \$180,500E

SECTION 4.075.— To the Department of Revenue
 For payment of court costs and attorney fees pursuant to Section
 302.536, RSMo
 From State Highways and Transportation Department Fund. \$15,000

SECTION 4.080.— To the Department of Revenue
 For distribution to cities and counties of all funds accruing to the
 Motor Fuel Tax Fund under the provisions of Sections 30(a) and
 30(b), Article IV, Constitution of Missouri
 From Motor Fuel Tax Fund. \$188,000,000E

SECTION 4.085.— To the Department of Revenue
For refunding any overpayment or erroneous payment of any amount
credited to the Aviation Trust Fund
From Aviation Trust Fund. \$16,000E

SECTION 4.090.— To the Department of Revenue
For refunds and distributions of motor fuel taxes
From State Highways and Transportation Department Fund. \$44,219,423E

SECTION 4.095.— To the Department of Revenue
For payment of fees to counties as a result of delinquent collections
made by circuit attorneys or prosecuting attorneys and payment
of collection agency fees
From General Revenue Fund. \$2,728,000E

SECTION 4.100.— To the Department of Revenue
For payment of fees to counties for the filing of lien notices and lien releases
From General Revenue Fund. \$200,000

SECTION 4.105.— To the Department of Revenue
For refunds for overpayment or erroneous payment of any tax or any
payment credited to the Workers' Compensation Fund
From Workers' Compensation Fund. \$1,669,902E

SECTION 4.110.— To the Department of Revenue
For refunds for overpayment or erroneous payment of any tax or any
payment credited to the Second Injury Fund
From Second Injury Fund. \$498,966E

SECTION 4.115.— To the Department of Revenue
For refunds for overpayment or erroneous payment of any tax or any
payment for tobacco taxes
From Health Initiatives Fund. \$42,000E
From State School Moneys Fund. 17,000E
From Fair Share Fund. 3,000E
Total. \$62,000

SECTION 4.120.— To the Department of Revenue
For refunds for overpayment or erroneous payment of any payment
credited to the Motor Vehicle Commission Fund
From Motor Vehicle Commission Fund. \$12,000E

SECTION 4.125.— To the Department of Revenue
For payment of dues and fees to the Multistate Tax Commission
From General Revenue Fund. \$174,701

SECTION 4.130.— There is transferred out of the state treasury,
chargeable to the General Revenue Fund, such amounts as may be
necessary, to make payments of refunds set off against debts as
required by Section 143.786, RSMo, to the Debt Offset Escrow
Fund
From General Revenue Fund. \$10,512,884E

SECTION 4.135. — For the payment of refunds set off against debts as required by Section 143.786, RSMo	
From Debt Offset Escrow Fund.	\$250,000E
SECTION 4.140. — There is transferred out of the state treasury, chargeable to the School District Trust Fund, Two Million, Five Hundred Thousand Dollars to the General Revenue Fund	
From School District Trust Fund.. . . .	\$2,500,000
SECTION 4.145. — There is transferred out of the state treasury, chargeable to the Parks Sales Tax Fund, sixty-six hundredths percent of the funds received, to the General Revenue Fund	
From Parks Sales Tax Fund.	\$200,000E
SECTION 4.150. — There is transferred out of the state treasury, chargeable to the Soil and Water Sales Tax Fund, sixty-six hundredths percent of the funds received, to the General Revenue Fund	
From Soil and Water Sales Tax Fund.	\$200,000E
SECTION 4.155. — There is transferred out of the state treasury, chargeable to the Solid Waste Management Fund, One Hundred Eight Thousand Dollars to the General Revenue Fund	
From Solid Waste Management Fund.	\$108,000
SECTION 4.160. — There is transferred out of the state treasury, chargeable to the General Revenue Fund, amounts from income tax refunds designated by taxpayers for deposit in the Division of Aging and Elderly Home Delivered Meals Trust Fund, Veterans' Trust Fund, Children's Trust Fund and Missouri National Guard Trust Fund	
From General Revenue Fund.	\$333,224E
SECTION 4.165. — There is transferred out of the state treasury, chargeable to the funds listed below, amounts from income tax refunds erroneously deposited to said funds, to the General Revenue Fund	
From Division of Aging and Elderly Home Delivered Meals Trust Fund.	\$2,831E
From Veterans' Trust Fund.. . . .	1,985E
From Children's Trust Fund	5,202E
From Missouri National Guard Trust Fund.	651E
Total.	\$10,669
SECTION 4.170. — There is transferred out of the state treasury, chargeable to the Department of Revenue Information Fund, One Million, Four Hundred Fifty-four Thousand, Eight Hundred Forty-three Dollars to the State Highways and Transportation Department Fund	
From Department of Revenue Information Fund.	\$1,454,843E

SECTION 4.175.— There is transferred out of the state treasury,
chargeable to the State Highways and Transportation Department
Fund, Two Hundred One Million, Two Hundred Fifteen Thousand, Six
Hundred Fifty-five Dollars to the State Road Fund
From State Highways and Transportation Department Fund. \$201,215,655E

SECTION 4.177.— There is transferred out of the state treasury,
chargeable to the Motor Fuel Tax Fund, Four Hundred Seventy
Million, Five Hundred Forty-six Thousand, Nine Hundred Three
Dollars to the State Highways and Transportation Department Fund
From Motor Fuel Tax Fund. \$470,546,903E

SECTION 4.180.— To the Department of Revenue
For the State Lottery Commission
For any and all expenditures, including operating maintenance and
repair and minor renovations, necessary for the purpose of
operating a state lottery
Personal Service. \$6,570,699
Expense and Equipment 36,938,817E
From Lottery Enterprise Fund. \$43,509,516

SECTION 4.185.— To the Department of Revenue
For the State Lottery Commission
For the payment of prizes
From Lottery Enterprise Fund. \$80,000,000E

SECTION 4.190.— There is transferred out of the state treasury,
chargeable to the Lottery Enterprise Fund, One Hundred Eighty-
five Million, Eight Hundred Thousand Dollars to the Lottery
Proceeds Fund
From Lottery Enterprise Fund. \$186,898,100E

SECTION 4.200.— To the Department of Transportation
For the Highways and Transportation Commission and Highway Program
Administration
Personal Service. \$24,417,930
Expense and Equipment 10,355,646
From State Highways and Transportation Department Fund 34,773,576

For Administration fringe benefits
Personal Service. 8,271,605E
Expense and Equipment 7,935,645E
From State Highways and Transportation Department Fund 16,207,250
Total (Not to exceed 554.00 F.T.E.). \$50,980,826

SECTION 4.205.— To the Department of Transportation
For the Construction Program
To pay the costs of reimbursing counties and other political
subdivisions for the acquisition of roads and bridges taken over
by the state as permanent parts of the state highway system, and
for the costs of locating, relocating, establishing, acquiring,
constructing, reconstructing, widening, and improving those

highways, bridges, tunnels, parkways, travel ways, tourways, and coordinated facilities authorized under Article IV, Section 30(b) of the Constitution of Missouri; of acquiring materials, equipment, and buildings necessary for such purposes and for other purposes and contingencies relating to the location and construction of highways and bridges; and to receive funds from the United States government for like purposes

Personal Service

From State Highways and Transportation Department Fund. \$78,882,934E

Expense and Equipment 74,747,179E

Construction 902,187,408E

From State Road Fund 976,934,587

Construction

From State Road Fund 255,000,001E

For all expenditures associated with refunding currently outstanding state road bond debt

From State Road Fund 44,991,107E

For Construction Program fringe benefits

Personal Service. 25,941,239E

Expense and Equipment. 1,863,843E

From State Highways and Transportation Department Fund. 27,805,082

Total (Not to exceed 1,913.00 F.T.E.). \$1,383,613,711

SECTION 4.210.— To the Department of Transportation

For the Transportation Enhancements Program of the Transportation

Equity Act for the 21st Century

From State Road Fund. \$8,200,000E

SECTION 4.215.— To the Department of Transportation

For the Maintenance Program

To pay the costs of preserving and maintaining the state system of roads and bridges and coordinated facilities authorized under Article IV, Section 30(b) of the Constitution of Missouri; of acquiring materials, equipment, and buildings necessary for such purposes and for other purposes and contingencies related to the preservation and maintenance of highways and bridges

Personal Service

From State Highways and Transportation Department Fund. \$118,943,290E

Expense and Equipment

From State Road Fund 107,265,723E

For Maintenance Program fringe benefits

Personal Service. 42,816,986E

Expense and Equipment. 3,366,647E

From State Highways and Transportation Department Fund. 46,183,633

Total (Not to exceed 3,586.75 F.T.E.). \$272,392,646

SECTION 4.220.— To the Department of Transportation

For Service Operations

To pay the costs of constructing, preserving, and maintaining the state system of roads and bridges and coordinated facilities authorized under Article IV, Section 30(b) of the Constitution of Missouri; of acquiring materials, equipment, and buildings necessary for such purposes and for other purposes and contingencies related to the construction, preservation, and maintenance of highways and bridges

Personal Service

From State Highways and Transportation Department Fund. \$16,918,593

Expense and Equipment

From State Road Fund 82,829,787E

For Service Operations fringe benefits

Personal Service. 5,701,181E

Expense and Equipment. 435,884E

From State Highways and Transportation Department Fund. 6,137,065

Total (Not to exceed 462.50 F.T.E.). \$105,885,445

SECTION 4.225.— To the Department of Transportation

For Multimodal Operations Administration

Personal Service. \$330,945

Expense and Equipment. 26,006

From General Revenue Fund. 356,951

Personal Service 469,659

Expense and Equipment. 650,000

From Federal Funds 1,119,659

Expense and Equipment

From State Road Fund 15,000

Personal Service

From State Highways and Transportation Department Fund 162,996

Personal Service

From State Transportation Fund 45,187

Personal Service. 326,960

Expense and Equipment. 16,150

From Aviation Trust Fund 343,110

For Multimodal Operations Fringe Benefits

Personal Service

From General Revenue Fund. 117,134E

Personal Service

From Federal Funds 141,182E

Personal Service
From State Highways and Transportation Department Fund 54,379E

Personal Service
From State Transportation Fund 16,922E

Personal Service
From Aviation Trust Fund. 98,118
Total (Not to exceed 27.00 F.T.E.). \$2,470,638

SECTION 4.230.— To the Department of Transportation

For Multimodal Operations

For reimbursements to the State Highways and Transportation

Department Fund for providing professional and technical
services and administrative support of multimodal programs

From General Revenue Fund. \$39,309
From Federal Funds 71,500
From State Transportation Fund 32,420
From Aviation Trust Fund. 12,701
Total. \$155,930

SECTION 4.235.— To the Department of Transportation

For Multimodal Operations

For loans from the State Transportation Assistance Revolving Fund to

political subdivisions of the state or to public or private not-
for-profit organizations or entities in accordance with Section
226.191, RSMo

From State Transportation Assistance Revolving Fund. \$740,340E

SECTION 4.237.— There is transferred out of the state treasury,
chargeable to the General Revenue Fund, Three Million, Seven
Hundred Sixty-five Thousand, Five Hundred Eighty-nine Dollars
(\$3,765,589) to the State Transportation Fund

From General Revenue Fund. \$3,765,589

SECTION 4.238.— To the Department of Transportation

For the Transit Program

For distributing funds to urban, small urban, and rural

transportation systems providing that at least \$1,500,000 from
the State Transportation Fund be distributed to small urban and
rural public transportation

From State Transportation Fund. \$3,765,589
From Federal Funds 3,765,590
Total. \$7,531,179

SECTION 4.240.— To the Department of Transportation

For the Transit Program

For locally matched capital improvement grants under Section 5310,

Title 49, United States Code to assist private, non-profit
organizations in improving public transportation for the state's
elderly and people with disabilities

From Federal Funds. \$1,600,739E

SECTION 4.245.— To the Department of Transportation

For the Transit Program

For an operating subsidy for not-for-profit transporters of the
elderly, people with disabilities, and low-income individuals

From General Revenue Fund. \$2,793,805

SECTION 4.250.— To the Department of Transportation

For the Transit Program

For grants to urban areas under Section 5307, Title 49, United States Code

From Federal Funds. \$3,974,641E

SECTION 4.255.— To the Department of Transportation

For the Transit Program

For locally matched grants to small urban and rural areas under
Section 5311, Title 49, United States Code

From Federal and Local Funds. \$5,106,574E

SECTION 4.260.— To the Department of Transportation

For the Transit Program

For grants under Section 5309, Title 49, United States Code to assist
private, non-profit organizations providing public
transportation services

From Federal Funds. \$12,000,000E

SECTION 4.265.— To the Department of Transportation

For the Transit Program

For grants to metropolitan areas under Section 5303, Title 49, United
States Code

From Federal Funds. \$908,000E

SECTION 4.270.— To the Department of Transportation

For the Rail Program

For grants under Section 5 of the Department of Transportation Act,
as amended by the reauthorizing act, for acquisition,
rehabilitation, improvement, or rail facility construction
assistance

From Federal Funds. \$1E

SECTION 4.272.— To the Department of Transportation

For the Rail Program

For state participation in the joint state/federal Amtrak Rail Passenger
Service Program

From General Revenue Fund. \$3,500,000

From State Transportation Fund. 1,500,000Total (0 F.T.E.). \$5,000,000**SECTION 4.273.**— To the Department of Transportation

For station repairs and improvements at Missouri Amtrak stations

From State Transportation Fund (0 F.T.E.). \$25,000

SECTION 4.275.— To the Department of Transportation

For the Aviation Program

For construction, capital improvements, and maintenance of publicly
owned airfields by cities or other political subdivisions,
including land acquisition, and for printing charts and
directories

From Aviation Trust Fund. \$4,600,000E

SECTION 4.280.— To the Department of Transportation

For the Aviation Program

For construction, capital improvements, or planning of publicly owned
airfields by cities or other political subdivisions, including
land acquisition, pursuant to the provisions of the State Block
Grant Pilot Program authorized by Section 116 of the Federal
Airport and Airway Safety and Capacity Expansion Act of 1987

From Federal Funds. \$11,000,000E

SECTION 4.285.— To the Department of Transportation

For the Waterways Program

For grants to port authorities for assistance in port planning, acquisition,
or construction within the port districts.

\$169,987

For the Mid-America Port Commission. 40,000

For the St. Joseph Regional Port Authority. 30,000

From General Revenue Fund (0 F.T.E.). \$239,987

BILL TOTALS

General Revenue. \$1,198,400,309

Federal Funds. 43,167,339

Other Funds. 2,238,864,594

Total. \$3,480,432,242

Approved June 26, 2002

HB 1105 [CCS SCS HCS HB 1105]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: OFFICE OF ADMINISTRATION, DEPARTMENT OF TRANSPORTATION
AND CHIEF EXECUTIVE'S OFFICE.**

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Office of Administration, the Department of Transportation, and the Chief Executive's Office, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2002 and ending June 30, 2003.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2002 and ending June 30, 2003, as follows:

SECTION 5.005. — To the Office of Administration

For the Commissioner and Central staff

Personal Service.	\$2,907,026
Expense and Equipment.	<u>567,598</u>
From General Revenue Fund	3,474,624

Personal Service	
From Federal Surplus Property Fund.	<u>39,228</u>
Total (Not to exceed 67.57 F.T.E.)	3,513,852

For the Division of Accounting

Personal Service.	2,089,276
Expense and Equipment.	<u>303,711</u>
From General Revenue Fund (Not to exceed 61.00 F.T.E.)	2,392,987

For the Division of Budget and Planning

Personal Service.	1,597,699
Expense and Equipment.	<u>165,813</u>
From General Revenue Fund (Not to exceed 32.00 F.T.E.).	1,763,512

For the Division of Information Services

Personal Service.	2,578,768
Expense and Equipment	<u>5,557,399</u>
From General Revenue Fund.	8,136,167

Personal Service.	5,683,046
Expense and Equipment	<u>27,868,636</u>
From the Office of Administration Revolving Administrative Trust Fund.	<u>33,551,682</u>
Total (Not to exceed 196.40 F.T.E.).	41,687,849

For the Division of Design and Construction

Personal Service.	1,829,206
Expense and Equipment.	<u>32,470</u>
Personal Service and/or Expense and Equipment.	<u>200,000</u>
From General Revenue Fund.	2,061,676

Personal Service.	2,557,976
Expense and Equipment.	<u>112,339</u>
Personal Service and/or Expense and Equipment.	<u>300,000</u>
From Office of Administration Revolving Administrative Trust Fund.	<u>2,970,315</u>
Total (Not to exceed 103.00 F.T.E.).	5,031,991

For the Division of Personnel

Personal Service.	3,079,295
Expense and Equipment.	<u>348,190</u>
From General Revenue Fund.	3,427,485

Personal Service.....	59,302
Expense and Equipment.....	<u>320,000</u>
From Office of Administration Revolving Administrative Trust Fund.	<u>379,302</u>
Total (Not to exceed 86.85 FTE).	3,806,787

For the Division of Purchasing and Materials Management

Personal Service.....	1,660,851
Expense and Equipment.....	<u>228,618</u>
From General Revenue Fund (Not to exceed 44.00 F.T.E.)	1,889,469

For the Division of General Services

Personal Service.....	1,388,899
Expense and Equipment.....	<u>236,255</u>
From General Revenue Fund.	1,625,154

Personal Service.....	2,355,028
Expense and Equipment	<u>1,813,342</u>
From Office of Administration Revolving Administrative Trust Fund.	<u>4,168,370</u>
Total (Not to exceed 115.45 F.T.E.).	<u>5,880,620</u>

Total for this Section. \$65,879,971

SECTION 5.015.— There is transferred out of the State Treasury,
chargeable to the Healthy Families Trust Fund, Eighty-nine
Million, Four Hundred Twelve Thousand, Forty-three Dollars to
the General Revenue Fund

From Healthy Families Trust Fund. \$89,412,043

SECTION 5.017.— There is transferred out of the State Treasury, chargeable
to the Healthy Families Trust Fund-Senior Prescription Account,
Thirteen Million, Two Hundred Thousand Dollars to the General
Revenue Fund

From Healthy Families Trust Fund-Senior Prescription Account. \$13,200,000

SECTION 5.020.— There is transferred out of the State Treasury,
chargeable to the Healthy Families Trust Fund, Fifty-three
Million, Seven Hundred Sixty-six Thousand, Seven Hundred Eighty-
one Dollars to the Healthy Families Trust Fund-Health Care
Account

From Healthy Families Trust Fund. \$53,766,781

SECTION 5.030.— There is transferred out of the State Treasury,
chargeable to the Healthy Families Trust Fund, Four Hundred
Sixty-six Thousand, Sixty-four Dollars to the Healthy Families
Trust Fund-Tobacco Prevention Account

From Healthy Families Trust Fund. \$466,064

SECTION 5.035.— There is transferred out of the State Treasury,
chargeable to the Healthy Families Trust Fund, Twenty Million,
Four Hundred Thousand Dollars to the Healthy Families Trust
Fund-Senior Prescription Account

From Healthy Families Trust Fund. \$20,400,000

SECTION 5.040.— There is transferred out of the State Treasury,
chargeable to various funds, such amounts as are necessary for
allocation of costs to other funds in support of the state's
central services, to the General Revenue Fund

From Uncompensated Care Fund..	\$2,525,210
From Mental Health Interagency Payments Fund	34,315
From Department of Health Interagency Payments Fund.	8,318
From Pharmacy Rebates Fund	534,646
From Third Party Liability Collections Fund.	89,728
From Marguerite Ross Barnett Scholarship Fund..	2,349
From Utilicare Stabilization Fund..	3,387
From Intergovernmental Transfer Fund	12,347
From Division of Family Services Donations Fund.	188
From Child Support Enforcement Collections Fund..	306,257
From Missouri Technology Investment Fund	16,654
From Missouri Water Development Fund	2,167
From General Revenue Reimbursements Fund	231,285
From Missouri Humanities Council Trust Fund..	441
From Post Closure Fund	251
From Motorcycle Safety Trust Fund..	25
From Hearing Instrument Specialist Fund.	651
From Compulsive Gamblers Fund.	769
From Missouri Capital Access Program Fund.	813
From Missouri Crime Prevention Information and Programming Fund.	125
From Missouri Housing Trust Fund	41,498
From Treasurer's Information Fund.	23
From State Committee of Interpreters Fund..	204
From Elevator Safety Fund.	530
From Residential Mortgage Licensing Fund	2,179
From Missouri Arts Council Trust Fund.	24,357
From Board of Geologist Registration Fund.	817
From Missouri Commission for the Deaf Board of Certification of Interpreters Fund	610
From Gaming Commission Bingo Fund..	148
From Secretary of State's Technology Trust Fund Account..	21,734
From Missouri Air Emission Reduction Fund.	16,106
From Missouri National Guard Training Site Fund.	3,198
From Statewide Court Automation Fund	53,373
From Nursing Facility Quality of Care Fund	34,582
From Missouri Student Grant Program Gift Fund.	131
From Division of Tourism Supplemental Revenue Fund	60,297
From Health Initiatives Fund	322,921
From Health Access Incentive Fund..	16,327
From Mental Health Housing Trust Fund.	2
From Family Support Loan Program Fund.	722
From Business Extension Service Team Fund..	4,720
From Peace Officers Standards and Training Commission Fund	12,272
From Independent Living Center Fund.	1,967
From Gaming Commission Fund..	576,473
From Mental Health Earnings Fund	18,577
From Grade Crossing Safety Account Fund.	11,517
From Animal Health Laboratory Fee Fund	3,855

From Mammography Fund.	1,566
From Animal Care Reserve Fund.	6,741
From Division of Aging Elderly Home Delivered Meals Trust Fund	586
From Highway Patrol Inspection Fund.	7,835
From Missouri Public Health Services Fund.	18,267
From Livestock Brands Fund	187
From Veterans' Commission Capital Improvement Trust Fund	74,793
From Commodity Council Merchandising Fund.	1,319
From Single-Purpose Animal Facilities Loan Program Fund.	1,898
From State Fair Fees Fund.	37,054
From Agricultural Product Utilization Grant Fund	1,286
From State Parks Earnings Fund	82,110
From State Parks Revolving Fund.	21
From Natural Resources Revolving Services Fund	12,071
From Historic Preservation Revolving Fund.	3,792
From Missouri Veterans' Homes Fund	618,232
From Department of Natural Resources Cost Allocation Fund.	87,658
From State Facility Maintenance and Operation Fund	188,708
From Office of Administration Revolving Administrative Trust Fund.	531,550
From Working Capital Revolving Fund.	304,966
From Central Check Mailing Service Revolving Fund.	585
From House of Representatives Revolving Fund	239
From Supreme Court Publications Revolving Fund	650
From Adjutant General Revolving Fund	931
From Senate Revolving Fund	237
From Inmate Revolving Fund	49,303
From Department of Social Services Administrative Trust Fund	16,429
From Statutory Revision Fund	5,881
From Department of Economic Development Administrative Fund.	18,576
From Division of Credit Unions Fund.	16,762
From Division of Savings and Loan Supervision Fund	325
From Division of Finance Fund.	105,591
From Insurance Examiners Fund.	107,846
From Natural Resources Protection Fund	251
From Deaf Relay Service and Equipment Distribution Program Fund.	50,625
From Real Estate Appraisers Fund	2,583
From Endowed Care Cemetery Audit Fund.	1,244
From Professional and Practical Nursing Student Loan and Nurse Loan Repayment Fund	7,545
From Department of Insurance Dedicated Fund.	148,679
From International Promotions Revolving Fund	1,590
From Solid Waste Management Fund-Scrap Tire Subaccount	24,471
From Solid Waste Management Fund	101,632
From Missouri Qualified Fuel Ethanol Producer Incentive Fund	15,172
From Aquaculture Marketing Development Fund.	97
From Clinical Social Workers Fund.	2,370
From Metallic Minerals Waste Management Fund	1,487
From Landscape Architectural Council Fund.	279
From Local Records Preservation Fund	27,125
From Veterans' Trust Fund.	387
From State Committee of Psychologists Fund	4,430
From Livestock Sales and Markets Fees Fund	160

From Manufactured Housing Fund	7,776
From Natural Resources Protection Fund-Air Pollution Asbestos	
Fee Subaccount	4,024
From Petroleum Storage Tank Insurance Fund	210,998
From Underground Storage Tank Regulation Program Fund.	4,651
From Chemical Emergency Preparedness Fund.	9,476
From Motor Vehicle Commission Fund	14,902
From Health Spa Regulatory Fund.	41
From State Forensic Laboratory Fund.	2,395
From Services to Victims' Fund	27,245
From Natural Resources Protection Fund-Air Pollution Permit	
Fee Subaccount	128,119
From Missouri Main Street Program Fund	484
From Health Professional Student Loan and Loan Repayment	
Program Fund.	124
From Missouri Job Development Fund	54,828
From Children's Service Commission Fund.	9
From Attorney General's Court Costs Fund	579
From Missouri Breeders Fund.	39
From Public Service Commission Fund.	247,942
From Apple Merchandising Fund.	35
From Department of Revenue Information Fund.	24,825
From Department of Social Services Educational Improvement Fund.	86,891
From Tort Victims Compensation Fund.	1,018
From Livestock Dealer Law Enforcement and Administration Fund.	51
From Healthy Families Trust Fund	2,513,684
From Board of Accountancy Fund	8,595
From Board of Barber Examiners Fund.	1,667
From Board of Podiatric Medicine Fund.	203
From Board of Chiropractic Examination Fund.	4,494
From Merchandising Practices Revolving Fund.	22,752
From Board of Cosmetology Fund	8,716
From Board of Embalmers and Funeral Directors Fund	2,437
From Board of Registration for Healing Arts Fund	52,705
From Board of Nursing Fund	66,171
From Board of Optometry Fund	1,102
From Board of Pharmacy Fund.	21,185
From Missouri Real Estate Commission Fund.	29,285
From Veterinary Medical Board Fund	3,419
From Milk Inspection Fees Fund	15,511
From Department of Health Document Services Fund	741
From Grain Inspection Fees Fund.	34,345
From Petition Audit Revolving Trust Fund	2,867
From Tourism Marketing Fund.	13
From Workers' Compensation Fund.	181,213
From Second Injury Fund.	396,522
From Department of Health-Donated Fund	13,758
From Railroad Expense Fund	10,713
From Groundwater Protection Fund	9,838
From Petroleum Inspection Fund	43,468
From Infrastructure Development Fund	4,626
From Attorney General's Antitrust Fund	4,631

From Energy Set-Aside Program Fund	35,794
From State Land Survey Program Fund.	27,291
From Petroleum Violation Escrow Fund	61,460
From Legal Defense and Defender Fund	10,341
From Criminal Record System Fund	26,252
From Committee on Professional Counselors Fund	4,088
From Highway Patrol Academy Fund	4,423
From Hazardous Waste Fund.	43,463
From Dental Board Fund	10,948
From State Board of Architects, Engineers, and Land Surveyors Fund	16,965
From Safe Drinking Water Fund.	47,938
From Missouri Office of Prosecution Services Fund.	2,952
From Crime Victims' Compensation Fund.	54,023
From Marketing Development Fund.	7,232
From Coal Mine Land Reclamation Fund	1,754
From State Elections Subsidy Fund.	4,645
From Professional Registration Fees Fund	68,753
From Hazardous Waste Remedial Fund	37,946
From Missouri Air Pollution Control Fund	7,889
From State Legal Expense Fund.	21,065
From Athletic Fund	1,218
From Children's Trust Fund	31,339
From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund.	55,864
From Meramac-Onondaga State Parks Fund	672
From Proceeds of Surplus Property Sales Fund	12,400
From ADA Compliance Fund	4,316
From Confederate Memorial Park Fund.	47
From Marital and Family Therapists Fund.	226
From Library Networking Fund	3,315
From Organ Donor Program Fund.	4,023
From Child Labor Enforcement Fund.	854
From Inmate Incarceration Reimbursement Act Revolving Fund	1,063
From Secretary of State's Investor Education Fund.	211
From Property Reuse Fund	1,436
From State Court Administration Revolving Fund	117
From Respiratory Care Practitioners Fund	1,624
From Concentrated Animal Feeding Operation Indemnity Fund.	225
From State Document Preservation Fund.	49
From Light Rail Safety Fund.	116
From Student Grant Fund.	60,623
From Academic Scholarship Fund	55,558
From State Transportation Assistance Revolving Fund.	5,528
From Criminal Justice Network and Technology Revolving Fund.	12,810
From Missouri Office of Prosecution Services Revolving Fund.	863
From Missouri Board of Occupational Therapy Fund	2,739
From Judiciary Education and Training Fund	17,058
From Missouri Supplemental Tax Increment Financing Fund.	972
From Bridge Scholarship Fund	4
From Domestic Relations Resolution Fund.	1,292
From Correctional Substance Abuse Earnings Fund.	552
From Missouri Wine Marketing and Research Development Fund	97
From Advantage Missouri Trust Fund	14,538

From Dietitian Fund	579
From Missouri College Guarantee Fund	32,851
From Early Childhood Development, Education and Care Fund	114,648
From Escheats Fund	9,967
From Abandoned Fund	312,629
From Champ W. Smith & Mary C. Smith Memorial Endowment Trust Fund	172
From Interior Designer Council Fund	124
From Kids' Chance Scholarship Fund	27
From Massage Therapy Fund	1,856
From Premium Fund	2,636
From Missouri Public Broadcasting Corporation Special Fund	2,178
From Fine Collections Center Interest Revolving Fund	62
From Assistive Technology Loan Revolving Fund	29
From Petroleum Violation Escrow Interest Subaccount Fund	5,156
From World War II Memorial Trust Fund	66
From Blindness Education, Screening and Treatment Program Fund	701
From Dry-cleaning Environmental Response Trust Fund	1,289
From Missouri National Guard Trust Fund	29,366
From Agriculture Development Fund	3,357
From Alternative Care Trust Fund	81,951
From Missouri State Employees' Voluntary Life Insurance Fund	7,796
From Mined Land Reclamation Fund	7,668
From Babler State Park Fund	5,308
From Institution Gift Trust Fund	477
From Mental Health Institution Gift Trust Fund	71,548
From Secretary of State-Wolfner State Library Fund	3,447
From Secretary of State Institution Gift Trust Fund	2,700
From Special Employment Security Fund	23,156
From Crippled Children Fund	487
From State Fair Trust Fund	31
From Aviation Trust Fund	43,377
Total	\$13,526,911

SECTION 5.045.— To the Office of Administration

For the Commissioner's Office

For participation by the State of Missouri in the Compact for the
Education Commission of the States

From General Revenue Fund \$78,800

SECTION 5.050.— There is transferred out of the State Treasury,
chargeable to the Office of Administration Revolving
Administrative Trust Fund, One Dollar to the General Revenue
Fund

From Office of Administration Revolving Administrative Trust Fund \$1E

SECTION 5.055.— To the Office of Administration

For the Commissioner's Office

For paying the several counties of Missouri the amount that has been
paid into the State Treasury by the United States Treasury as a
refund from the leases of flood control lands, under the
provisions of an Act of Congress approved June 28, 1938, to be

distributed to certain counties in Missouri in accordance with
the provisions of state law
From Federal Funds (0 F.T.E.). \$865,000E

SECTION 5.060. — To the Office of Administration

For the Commissioner's Office

For paying the several counties of Missouri the amount that has been
paid into the State Treasury by the United States Treasury as a
refund from the National Forest Reserve, under the provisions of
an Act of Congress approved June 28, 1938, to be distributed to
certain counties in Missouri
From Federal Funds (0 F.T.E.). \$2,415,000E

SECTION 5.065. — To the Office of Administration

There is transferred out of the State Treasury, chargeable to the
General Revenue Fund, Six Hundred Thousand Dollars to the Water
Development Fund
From General Revenue Fund. \$600,000

SECTION 5.070. — To the Office of Administration

For the Commissioner's Office

For the payment of interest, operations, and maintenance in
accordance with the Cannon Water Contract
From Water Development Fund (0 F.T.E.). \$600,000

SECTION 5.075. — To the Office of Administration

For the Commissioner's Office

For payment to counties for salaries of juvenile court personnel as
provided by Sections 211.393 and 211.394, RSMo
From General Revenue Fund (0 F.T.E.). \$7,620,000

SECTION 5.080. — To the Office of Administration

For the Commissioner's Office

For payments to counties for county correctional prosecution
reimbursements pursuant to Sections 50.850 and 50.853, RSMo
From General Revenue Fund (0 F.T.E.). \$20,000E

SECTION 5.085. — To the Office of Administration

For the Commissioner's Office

For paying an amount in aid to the counties that is the net amount of
costs in criminal cases, transportation of convicted criminals
to the state penitentiaries, and costs for reimbursement of the
expenses associated with extradition, less the amount of unpaid
city or county liability to furnish public defender office space
and utility services pursuant to Section 600.040, RSMo
From General Revenue Fund (0 F.T.E.). \$27,612,000

SECTION 5.090. — To the Office of Administration

For the Commissioner's Office

For distribution of state grants to regional planning commissions
and local governments as provided by Chapter 251, RSMo
From General Revenue Fund. \$200,000

For grants to regional planning commissions for training of emergency
response personnel
From Federal Funds. 25,000
Total (0 F.T.E.). \$225,000

SECTION 5.091.— To the Office of Administration

For the Commissioner's Office
For federal grants to support the efforts of the Missouri Commission on
Intergovernmental Cooperation provided that the General Assembly
shall be notified, in writing, of the source of funds and the purpose
for which they shall be expended prior to the use of said funds
From Federal Funds (0 F.T.E.). \$250,000

SECTION 5.092.— To the Office of Administration

For the Commissioner's Office
For grants to public television stations as provided in Sections 37.200
through 37.230, RSMo
From General Revenue Fund.. . . . \$95,000

SECTION 5.095.— To the Office of Administration

For the Commissioner's Office
For distribution to the Board of Curators of the University of
Missouri and the Board of Curators of Lincoln University for use
in the Colleges of Agriculture and Mechanical Arts under Acts of
Congress approved August 30, 1890 (26 Stat. L. 417-419) and
March 4, 1907 (34 Stat. L. 1256; 1281-1282) Department of
Education, with funds to be apportioned as follows: 1/16 of
total to Lincoln University; 1/4 to University of Missouri-
Rolla; and balance to University of Missouri-Columbia
From Federal Funds (0 F.T.E.). \$1E

SECTION 5.100.— There is transferred out of the State Treasury,
chargeable to the General Revenue Fund, such amounts as may
become necessary, to the State Elections Subsidy Fund

From General Revenue Fund.. . . . \$400,001E

SECTION 5.105.— To the Office of Administration

For the Commissioner's Office
For the state's share of special election costs as required by Sections
115.077 and 115.063, RSMo
From State Elections Subsidy Fund (0 F.T.E.). \$400,001E

SECTION 5.110.— To the Office of Administration

For the Commissioner's Office
For funding transition costs for the State Auditor as provided in Section
29.400, RSMo
From General Revenue Fund.. . . . \$10,000

SECTION 5.115.— To the Office of Administration

For transferring funds for all state employees and participating
political subdivisions to the OASDHI Contributions Fund
From General Revenue Fund.. . . . \$72,984,000E

From Federal Funds	27,299,000E
From Other Sources	<u>28,509,000E</u>
Total (0 F.T.E.)	\$128,792,000

SECTION 5.120.— For the Department of Transportation

For transferring funds from the state's contribution to the OASDHI
Contributions Fund, said transfers to be administered by the
Office of Administration

From State Highways and Transportation Department Fund (0 F.T.E.)	\$17,100,000E
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SECTION 5.125.— To the Office of Administration

For the Division of Accounting

For the payment of OASDHI taxes for all state employees and for
participating political subdivisions within the state to the
Treasurer of the United States for compliance with current
provisions of Title 2 of the Federal Social Security Act, as
amended, in accordance with the agreement between the State
Social Security Administrator and the Secretary of the
Department of Health and Human Services; and for administration
of the agreement under Section 218 of the Social Security Act
which extends Social Security benefits to state and local public
employees

From OASDHI Contributions Fund (0 F.T.E.)	\$145,892,000E
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SECTION 5.130.— To the Office of Administration

For transferring funds for the state's contribution to the Missouri
State Employees' Retirement System to the State Retirement
Contributions Fund

From General Revenue Fund.	\$115,265,000E
From Federal Funds	35,313,000E
From Other Sources	<u>29,551,000E</u>
Total (0 F.T.E.)	\$180,129,000

SECTION 5.135.— To the Office of Administration

For the Division of Accounting

For payment of the state's contribution to the Missouri State
Employees' Retirement System

From State Retirement Contributions Fund (0 F.T.E.)	\$180,129,000E
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SECTION 5.140.— To the Office of Administration

For the Division of Accounting

For payment of retirement benefits to the Public School Retirement
System pursuant to Section 104.342, RSMo

From General Revenue Fund.	\$2,500,000E
From Federal Funds	1,070,000E
From Other Funds.	<u>110,060E</u>
Total (0 F.T.E.)	\$3,680,060

SECTION 5.145.— To the Office of Administration

For the Division of Accounting

For the administration of the Deferred Compensation Program
Expense and Equipment

From General Revenue Fund.	\$2,872
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SECTION 5.150.— To the Office of Administration

For transferring funds for all state employees who are qualified participants in the state Deferred Compensation Plan in accordance with Section 105.927, RSMo, and pursuant to Section 401(a) of the Internal Revenue Code to the Missouri State Employees' Deferred Compensation Incentive Plan Administration Fund

From General Revenue Fund.....	\$6,200,000E
From Federal Funds	2,127,000E
From Other Sources	<u>2,577,000E</u>
Total	\$10,904,000

SECTION 5.155.— For the Department of Transportation

For transferring funds for the state's contribution to the Missouri State Employees' Deferred Compensation Incentive Plan Administration Fund, said transfers to be administered by the Office of Administration

From State Highways and Transportation Department Fund.....	\$1,400,000E
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SECTION 5.160.— To the Office of Administration

For the Division of Accounting

For the payment of funds credited by the state at a maximum rate of \$25 per month per qualified participant in accordance with Section 105.927, RSMo, to deferred compensation investment companies

From Missouri State Employees' Deferred Compensation Incentive Plan Administration Fund (0 F.T.E.).	\$12,304,000E
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SECTION 5.165.— To the Office of Administration

For the Division of Accounting

For reimbursing the Division of Employment Security benefit account for claims paid to former state employees for unemployment insurance coverage and for related professional services

From General Revenue Fund.....	\$1,634,500E
From Federal Funds	287,700E
From Other Funds.	<u>530,001E</u>
Total (0 F.T.E.).	\$2,452,201

SECTION 5.170.— To the Office of Administration

For transferring funds for the state's contribution to the Missouri Consolidated Health Care Plan to the Missouri Consolidated Health Care Plan Benefit Fund

From General Revenue Fund.....	\$181,283,043E
From Federal Funds	48,166,108E
From Other Sources	<u>29,828,646E</u>
Total.....	\$259,277,797

SECTION 5.175.— To the Office of Administration

For the Division of Accounting

For payment of the state's contribution to the Missouri Consolidated Health Care Plan

From Missouri Consolidated Health Care Plan Benefit Fund (0 F.T.E.). . . .	\$259,277,797E
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SECTION 5.180.— To the Office of Administration

For the Division of Accounting

For paying refunds for overpayment or erroneous payment of employee
withholding taxes

From General Revenue Fund (0 F.T.E.). \$36,000E

SECTION 5.185.— To the Office of Administration

For the Division of Accounting

For providing voluntary life insurance

From the Missouri State Employees' Voluntary Life Insurance

Fund (0 F.T.E.). \$732,000E

SECTION 5.190.— To the Office of Administration

For the Division of Accounting

For employee medical expense reimbursements reserve

From General Revenue Fund (0 F.T.E.). \$200,000

SECTION 5.200.— To the Office of Administration

For the Division of Accounting

Personal Service for state payroll contingency

From General Revenue Fund (0 F.T.E.). \$1E

SECTION 5.205.— To the Office of Administration

For the Division of Accounting

For payment of rent by the state for state agencies occupying Board
of Public Buildings revenue bond financed buildings. Funds are
to be used for principal, interest, bond issuance costs, and
reserve fund requirements of Board of Public Buildings bonds

From General Revenue Fund (0 F.T.E.). \$26,391,957

SECTION 5.210.— To the Office of Administration

For the Division of Accounting

For payment of annual fees and related expenses of the Board of
Public Buildings

From General Revenue Fund (0 F.T.E.). \$10,000E

SECTION 5.215.— To the Office of Administration

For the Division of Accounting

For all expenditures associated with refunding currently outstanding

Board of Public Buildings debt

From General Revenue Fund (0 F.T.E.). \$1E

SECTION 5.220.— To the Office of Administration

For the Division of Accounting

For all expenditures associated with Board of Public Buildings arbitrage rebate

From General Revenue Fund (0 F.T.E.). \$1E

SECTION 5.225.— To the Office of Administration

For the Division of Accounting

For payment of the state's lease/purchase debt requirements

From General Revenue Fund (0 F.T.E.). \$13,123,999

SECTION 5.230.— To the Office of Administration
For the Division of Accounting
For payment of annual fees and related expenses of the state's
 lease/purchase debt
From General Revenue Fund (0 F.T.E.). \$27,650E

SECTION 5.235.— To the Office of Administration
For the Division of Accounting
For all expenditures associated with refunding currently outstanding
 lease/purchase debt
From General Revenue Fund (0 F.T.E.). \$1E

SECTION 5.240.— To the Office of Administration
For the Division of Accounting
For all expenditures associated with lease/purchase arbitrage rebate
From General Revenue Fund (0 F.T.E.). \$1E

SECTION 5.243.— To the Office of Administration
For MOHEFA debt service and all related expenses associated with the
 Series 2001 MU - Columbia Arena project bonds
From General Revenue Fund. \$1E

SECTION 5.245.— To the Office of Administration
For the Division of Accounting
For the payment of principal, interest, and annual fee requirements
 of the Missouri Health and Educational Facilities Authority for
 Missouri College Savings Bonds
From General Revenue Fund (0 F.T.E.). \$10,000E

SECTION 5.250.— To the Office of Administration
For the Division of Accounting
For debt service contingency for the New Jobs Training Certificates
 Program
From General Revenue Fund (0 F.T.E.). \$1

SECTION 5.251.— To the Office of Administration
For the Division of Accounting
For any short-term notes issued by the Missouri Tobacco Settlement
 Authority
From General Revenue Fund. \$100,000,000

SECTION 5.255.— To the Office of Administration
For the Division of Accounting
For the Bartle Hall Convention Center expansion, operations,
 development, or maintenance in Kansas City pursuant to Sections
 67.638 through 67.641, RSMo
From General Revenue Fund (0 F.T.E.). \$2,000,000

SECTION 5.260.— To the Office of Administration
For the Division of Accounting
For the maintenance of the Jackson County Sports Complex pursuant to
 Sections 67.638 through 67.641, RSMo
From General Revenue Fund (0 F.T.E.). \$3,000,000

SECTION 5.265. — To the Office of Administration	
For the Division of Accounting	
For the expansion of the dual-purpose Edward Jones Dome project in	
St. Louis	
From General Revenue Fund (0 F.T.E.).	\$12,000,000
SECTION 5.270. — To the Office of Administration	
For the Division of Accounting	
For participation by the State of Missouri in the Governmental	
Accounting Standards Board	
From General Revenue Fund (0 F.T.E.).	\$26,100
SECTION 5.275. — To the Office of Administration	
For the Division of Accounting	
For interest payments on federal grant monies in accordance with the	
Cash Management Improvement Act of 1990 and 1992	
From General Revenue Fund (0 F.T.E.).	\$2,200,000E
SECTION 5.280. — To the Office of Administration	
For the Board of Fund Commissioners	
For the payment of claims against the Escheats Fund	
From Escheats Fund (0 F.T.E.).	\$250,000E
SECTION 5.285. — There is transferred out of the State Treasury,	
chargeable to the fund shown below, Six Hundred Twenty-nine	
Thousand Dollars for the transfer of money to the State Public	
School Fund as provided in Section 470.230, RSMo	
From the Escheats Fund.	\$629,000E
SECTION 5.290. — To the Office of Administration	
For the Division of Accounting	
For audit recovery distribution	
From General Revenue Fund (0 F.T.E.).	\$100,000E
SECTION 5.295. — There if transferred out of the State Treasury,	
chargeable to the General Revenue Fund, Two Million, Nineteen	
Thousand, Three Hundred Twenty-two Dollars for the statewide	
operational maintenance and repair appropriations, to the	
Facilities Maintenance and Reserve Fund	
From General Revenue Fund.	\$2,019,322
SECTION 5.300. — There is transferred out of the State Treasury,	
chargeable to the General Revenue Fund, One Hundred Thousand	
Dollars to various funds for costs related to Article X, Section	
18(b) of the Missouri State Constitution	
From the General Revenue Fund.	\$100,000E
SECTION 5.305. — There is transferred out of the State Treasury,	
chargeable sto the Budget Reserve Fund, such amounts as may be	
necessary for cash-flow assistance to various funds	
From Budget Reserve Fund to General Revenue Fund.	\$1E
From Budget Reserve Fund to Other Funds.	<u>4,700,000E</u>
Total.	<u>\$4,700,001</u>

SECTION 5.310.— There is transferred out of the State Treasury, such amounts as may be necessary for repayment of cash-flow assistance to the Budget Reserve Fund

From General Revenue Fund.....	\$1E
From Other Funds	<u>4,700,000E</u>
Total.	\$4,700,001

SECTION 5.315.— There is transferred out of the State Treasury, such amounts as may be necessary for interest payments on cash-flow assistance to the Budget Reserve Fund

From General Revenue Fund.....	\$12,000,000E
From Other Funds.	<u>1E</u>
Total.	\$12,000,001

SECTION 5.320.— There is transferred out of the State Treasury, such amounts as may be necessary for constitutional requirements of the Budget Reserve Fund

From General Revenue Fund.....	\$1E
From Budget Reserve Fund.....	<u>1E</u>
Total.	\$2

SECTION 5.325.— There is transferred out of the State Treasury, such amounts as may be necessary for corrections to fund balances

From General Revenue Fund.....	\$1E
From Other Funds.	<u>1E</u>
Total.	\$2

SECTION 5.330.— There is transferred out of the State Treasury, such amounts as may be necessary for the movement of cash between funds

From any fund except General Revenue Fund.....	\$1E
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SECTION 5.335.— To the Office of Administration

For the Division of Budget and Planning
For research and development activities

From General Revenue Fund.....	\$16,500
From Federal Funds.	<u>50,000</u>
Total (0 F.T.E.).	\$66,500

SECTION 5.340.— To the Office of Administration

For the Division of Information Services
For the centralized telephone billing system
Expense and Equipment

From Office of Administration Revolving Administrative Trust Fund (0 F.T.E.).	\$40,000,000E
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SECTION 5.345.— There is transferred out of the State Treasury, chargeable to the Office of Administration Revolving Administrative Trust Fund for funds generated by telephone contracts with the Department of Corrections, Two Million, One Hundred Seventeen Thousand, Four Hundred Seventy-nine Dollars to the General Revenue Fund

From Office of Administration Revolving Administrative Trust Fund.	\$2,117,479E
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SECTION 5.350.— To the Office of Administration
 For the Division of Design and Construction
 For the purpose of funding construction administration
 Personal Service. \$1,171,636
 Expense and Equipment. 414,400
 From Office of Administration Revolving Administrative Trust Fund
 (Not to exceed 28.00 F.T.E.). \$1,586,036

SECTION 5.355.— To the Office of Administration
 For the Division of Design and Construction
 For refunding bid plan deposits
 From Office of Administration Revolving Administrative Trust
 Fund (0 F.T.E.). \$15,000E

SECTION 5.360.— To the Office of Administration
 For the Division of Personnel
 For employee suggestion awards
 From Office of Administration Revolving Administrative
 Trust Fund (0 F.T.E.). \$10,000

SECTION 5.365.— To the Office of Administration
 For the Division of Purchasing and Materials Management
 For refunding bid and performance bonds
 From Office of Administration Revolving Administrative Trust
 Fund (0 F.T.E.). \$2,112,000E

SECTION 5.370.— To the Office of Administration
 For the Division of Purchasing and Materials Management
 For operation of the State Agency for Surplus Property
 Personal Service. \$675,742
 Expense and Equipment 752,884
 Fixed Price Vehicle Program. 800,000E
 From Federal Surplus Property Fund (Not to exceed 22.50 F.T.E.). \$2,228,626

SECTION 5.375.— To the Office of Administration
 For the Division of Purchasing and Materials Management
 For Surplus Property recycling activities
 From Federal Surplus Property Fund (0 F.T.E.). \$13,000E

SECTION 5.380.— To the Office of Administration
 For the Division of Purchasing and Materials Management
 For the disbursement of surplus property sales receipts
 From Proceeds of Surplus Property Sales Fund (0 F.T.E.). \$1,090,000E

SECTION 5.385.— To the Office of Administration
 For the Division of Facilities Management
 Leasing Operations
 Personal Service \$1,059,676
 Expense and Equipment. 233,867
 From Office of Administration Revolving Administrative Trust
 Fund (Not to exceed 26.39 F.T.E.). \$1,293,543

SECTION 5.390.— To the Office of Administration

For the Division of Facilities Management

Leasing Operations

There is transferred out of the State Treasury, chargeable to the
General Revenue Fund, One Million, Six Hundred Sixty-four
Thousand, Six Hundred Seventy-six Dollars to the Office of
Administration Revolving Administrative Trust Fund

From General Revenue Fund..... \$1,664,676

SECTION 5.395.— To the Office of Administration

For the Division of Facilities Management

Leasing Operations

There is transferred out of the State Treasury, chargeable to the
various funds, amounts paid from the General Revenue Fund for
services related to leasing operations to the General Revenue
Fund

From Federal Funds..... \$601,173E

From Other Funds..... 167,124E

Total..... \$768,297

SECTION 5.400.— To the Office of Administration

For the Division of Facilities Management

Leasing Operations

For the payment of fuel and utilities, janitorial services, and
related expenses for leased facilities

Expense and Equipment

From Office of Administration Revolving Administrative Trust

Fund (0 F.T.E.)..... \$2,893,510E

SECTION 5.405.— To the Office of Administration

For the Division of Facilities Management

Building Operations

For authority to spend donated funds to support renovations and
operations of the Governor's Mansion

From State Facility Maintenance and Operation Fund (0 F.T.E.)..... \$30,000

SECTION 5.410.— To the Board of Public Buildings

For the Office of Administration

For the Division of Facilities Management

Building Operations

For the purpose of funding the operations of the Fletcher Daniels
State Office Building, Springfield State Office Complex,
Wainwright State Office Building, Midtown State Office Building,
Hubert Wheeler Building, Harry S. Truman State Office Building,
St. Joseph State Office Building, the Kirkpatrick Information
Center, Mill Creek State Office Building; and the office
buildings, laboratories, and support facilities at the seat of
government

Personal Service..... \$6,165,759

Personal Service and/or Expense and Equipment..... 324,514

Expense and Equipment..... 10,993,611

From State Facility Maintenance and Operation Fund

(Not to exceed 227.08 F.T.E.)..... \$17,483,884

SECTION 5.415.— To the Office of Administration

For the Division of Facilities Management

Building Operations

For operational maintenance and repairs for state-owned facilities

From Facilities Maintenance Reserve Fund. \$246,672

From State Facility Maintenance and Operation Fund 572,083

Total (0 F.T.E.). \$818,755

SECTION 5.425.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, for payment of rent by the state to the Board of Public Buildings for state agencies occupying the Fletcher Daniels State Office Building, Springfield State Office Complex, Wainwright State Office Building, Midtown State Office Building, Hubert Wheeler Building, Harry S. Truman State Office Building, St. Joseph State Office Building, the Kirkpatrick Information Center, Mill Creek State Office Building; and to the Office of Administration for the office buildings, laboratories, and support facilities at the seat of government for any and all expenditures for the purpose of funding the operation of the buildings and facilities, the following amount to the State Facility Maintenance and Operation Fund

From General Revenue Fund. \$20,174,719

SECTION 5.426.— To the Office of Administration

For the Division of Facilities Management

For payment of real property leases, security deposits, related services and utilities at the St. Louis Custom House and Old Post Office

From General Revenue Fund. \$1,000

SECTION 5.430.— There is transferred out of the State Treasury, chargeable to the funds shown below, for payment of rent by the state to the Board of Public Buildings for state agencies occupying the Fletcher Daniels State Office Building, Springfield State Office Complex, Wainwright State Office Building, Midtown State Office Building, Hubert Wheeler Building, Harry S. Truman State Office Building, St. Joseph State Office Building, the Kirkpatrick Information Center, Mill Creek State Office Building; and to the Office of Administration for the office buildings, laboratories, and support facilities at the seat of government for any and all expenditures for the purpose of funding the operation of the buildings and facilities, the following amount to the General Revenue Fund

From Federal Funds. \$520,184E

From Other Funds 4,575,396E

Total. \$5,095,580

SECTION 5.435.— To the Board of Public Buildings

For the Office of Administration

For the Division of Facilities Management

Building Operations

For modifications and other support services at state-owned facilities

From State Facility Maintenance and Operation Fund (0 F.T.E.). \$990,000E

SECTION 5.440.— To the Office of Administration

For the Division of Facilities Management

For Building Operations

Personal Service.	\$39,906
Expense and Equipment.	<u>47,118</u>
From General Revenue Fund.	87,024

Personal Service.	67,139
Expense and Equipment	<u>108,287</u>
From Federal Funds	<u>175,426</u>
Total (Not to exceed 3.00 F.T.E.).	\$262,450

SECTION 5.445.— To the Office of Administration

For the Division of General Services

For the provision of workers' compensation benefits to state employees through either a self-insurance program administered by the Office of Administration and/or by contractual agreement with a private carrier and for administrative and legal expenses authorized, in part, by Section 105.810, RSMo

From General Revenue Fund.	\$15,800,000E
From Conservation Commission Fund.	<u>500,000E</u>
Total (0 F.T.E.).	\$16,300,000

SECTION 5.450.— To the Office of Administration

There is hereby transferred out of the State Treasury, chargeable to various funds, amounts paid from the General Revenue Fund for workers' compensation benefits provided to employees paid from these other funds to the General Revenue Fund

From Federal Funds.	\$900,000E
From Other Sources	<u>1,050,000E</u>
Total.	\$1,950,000

SECTION 5.455.— To the Office of Administration

For the Division of General Services

For workers' compensation tax payments pursuant to Section 287.690, RSMo

From General Revenue Fund.	\$1,050,000E
From Conservation Commission Fund.	<u>40,000E</u>
Total (0 F.T.E.).	\$1,090,000

SECTION 5.460.— There is transferred out of the State Treasury,

chargeable to the funds shown below, for the payment of claims, premiums, and expenses as provided by Sections 105.711 through 105.726, RSMo, the following amounts to the State Legal Expense Fund

From General Revenue Fund.	\$4,000,000E
From Office of Administration Revolving Administrative Trust Fund.	25,000E
From Conservation Commission Fund.	130,000E
From State Highways and Transportation Department Fund	600,000E
From Other Sources.	<u>2,435E</u>
Total.	\$4,757,435

SECTION 5.465.— To the Office of Administration

For the Division of General Services

For the payment of claims and expenses as provided by Section 105.711

et seq., RSMo, and for purchasing insurance against any or all

liability of the State of Missouri or any agency, officer, or

employee thereof

From State Legal Expense Fund (0 F.T.E.). \$4,757,435E

SECTION 5.470.— To the Office of Administration

For the Division of General Services

For reimbursable expenses and for the replacement or repair of damaged

equipment when recovery is obtained from a third party

Expense and Equipment

From Office of Administration Revolving Administrative Trust

Fund (0 F.T.E.). \$5,000,000E

SECTION 5.475.— To the Office of Administration

For the Division of General Services

For the Governor's Council on Physical Fitness and Health

For the expenditure of contributions, gifts, and grants to promote

physical fitness and healthy lifestyles

From Governor's Council on Physical Fitness Trust Fund (0 F.T.E.). \$350,000

SECTION 5.480.— To the Office of Administration

For the Administrative Hearing Commission

Personal Service. \$689,069

Expense and Equipment 124,213

From General Revenue Fund (Not to exceed 17.00 F.T.E.). \$813,282

SECTION 5.485.— To the Office of Administration

For the administrative, promotional, and programmatic costs of the

Children's Trust Fund Board as provided by Section 210.173, RSMo

Personal Service. \$183,921

Expense and Equipment 146,239For program disbursements. 3,360,000E

From Children's Trust Fund (Not to exceed 5.00 F.T.E.). \$3,690,160

SECTION 5.490.— To the Office of Administration

For the Children's Services Commission

Expense and Equipment

From Children's Services Commission Fund (0 F.T.E.). \$10,000

SECTION 5.495.— To the Office of Administration

For those services provided through the Office of Administration that

are contracted with and reimbursed by the Board of Trustees of

the Missouri Public Entity Risk Management Fund as provided by

Chapter 537, RSMo

Personal Service. \$560,742

Expense and Equipment. 64,847

From Office of Administration Revolving Administrative Trust Fund

(Not to exceed 16.00 F.T.E.). \$625,589

SECTION 5.500.— To the Office of Administration

For the Missouri Ethics Commission

Personal Service.	\$821,362
Expense and Equipment.	<u>563,662</u>
From General Revenue Fund (Not to exceed 21.00 F.T.E.).	\$1,385,024

SECTION 5.505.— To the Office of AdministrationFor the Office of Information Technology and an annual status report
of information technology projects. The report is to be

submitted to the Senate Appropriations Committee Chair and the

House Budget Chair by December 31 of each year

Personal Service

From General Revenue Fund.	\$194,496
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Personal Service.	173,589
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Expense and Equipment.	<u>100,939</u>
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From Office of Administration Revolving Administrative Trust Fund.	274,528
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For the Justice Integration Project

Personal Service.	845,955
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Expense and Equipment	<u>7,901,788</u>
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From Federal Funds	8,747,743
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For a continuous availability study

Expense and Equipment

From Federal Funds	600,000
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For a Network Consolidation Project

Expense and Equipment

From Federal Funds.	<u>600,000</u>
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Total (Not to exceed 13.00 F.T.E.).	\$10,416,767
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BILL TOTALS

General Revenue.	\$559,708,048
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Federal Funds.	127,990,978
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Other Funds.	<u>119,281,159</u>
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Total.	\$806,980,185
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Approved June 26, 2002

HB 1106 [CCS SCS HCS HB 1106]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**APPROPRIATIONS:** DEPARTMENT OF AGRICULTURE, DEPARTMENT OF NATURAL RESOURCES AND DEPARTMENT OF CONSERVATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Agriculture, Department of Natural Resources, Department of Conservation, and the several divisions and programs thereof and for the expenses, grants, refunds, distributions, and capital improvements projects involving the repair, replacement, and maintenance of state buildings and facilities of the Department of Natural Resources and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds, for the period beginning July 1, 2002 and ending June 30, 2003.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2002 and ending June 30, 2003, as follows:

SECTION 6.005. — To the Department of Agriculture

For the Office of the Director

Personal Service.....	\$1,566,939
Expense and Equipment ..	604,914

For refunds of erroneous receipts due to errors in application for licenses,

registrations, permits, certificates, subscriptions, or other fees.	4,000E
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From General Revenue Fund.	2,175,853
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Personal Service.....	201,799
Expense and Equipment ..	1,252,679

From Federal Funds and Other Funds .	1,454,478
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For the Agricultural Awareness Program

From Federal Funds	25,000
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From State Institutions Gift Trust Fund.	25,000
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Total (Not to exceed 45.00 F.T.E.).	\$3,680,331
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SECTION 6.010. — To the Department of Agriculture

For the Office of the Director

For the purpose of funding the Agriculture and Small Business

Development Authority

Personal Service.....	\$121,974
Expense and Equipment.	66,178

From General Revenue Fund.	188,152
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Personal Service.....	58,282
Expense and Equipment.	22,254

From Single-Purpose Animal Facilities Loan Program Fund.	80,536
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Total (Not to exceed 5.00 F.T.E.).	\$268,688
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SECTION 6.015. — To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to

General Revenue Fund, Three Million, Five Hundred Ninety-two

Thousand, Five Hundred Forty-six Dollars to the Missouri

Qualified Fuel Ethanol Producer Incentive Fund

From General Revenue Fund.	\$3,592,546
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There is hereby transferred out of the State Treasury, chargeable to
the Petroleum Violation Escrow Fund, One Million Dollars to the
Missouri Qualified Fuel Ethanol Producer Incentive Fund
From Petroleum Violation Escrow Fund 1,000,000
Total. \$4,592,546

SECTION 6.020.— To the Department of Agriculture
For Missouri Ethanol Producer Incentive Payments
From Missouri Qualified Fuel Ethanol Producer Incentive Fund (0 F.T.E.). . . . \$4,592,546

SECTION 6.025.— To the Department of Agriculture
For the Office of the Director
For operational maintenance and repairs for state-owned facilities
From Facilities Maintenance Reserve Fund (0 F.T.E.). \$94,689

SECTION 6.035.— To the Department of Agriculture
For the Division of Market Development
Personal Service. \$1,028,290
Expense and Equipment. 482,686
From General Revenue Fund. 1,510,976

Personal Service. 75,913
Expense and Equipment. 100,000
From Federal Funds 175,913

Personal Service
From Aquaculture Marketing Development Fund. 7,692
Total (Not to exceed 29.34 F.T.E.). \$1,694,581

SECTION 6.040.— To the Department of Agriculture
For the "Agri Missouri" Marketing Program
Personal Service. \$63,575
Expense and Equipment 377,415
From General Revenue Fund (Not to exceed 2.00 F.T.E.). \$440,990

SECTION 6.045.— To the Department of Agriculture
For the Grape and Wine Market Development Program
Personal Service. \$102,914
Expense and Equipment 559,150
For the Governor's Conference on Agriculture expense 125,000
From Marketing Development Fund (Not to exceed 3.00 F.T.E.). \$787,064

SECTION 6.050.— To the Department of Agriculture
For the Division of Market Development
For the Agriculture Development Program
Personal Service
From General Revenue Fund. \$39,278

Personal Service. 170,669
Expense and Equipment 48,422
For all moneys in the Agriculture Development Fund for investments,
reinvestment, and for emergency agricultural relief and
rehabilitation as provided by law. 500,000
From Agriculture Development Fund. 719,091
Total (Not to exceed 5.00 F.T.E.). \$758,369

SECTION 6.055.— To the Department of Agriculture

For the Division of Animal Health

Personal Service.....	\$2,011,263
Expense and Equipment.....	<u>464,333</u>
From General Revenue Fund.....	2,475,596

Personal Service.....	236,206
Expense and Equipment.....	<u>464,595</u>
From Federal Funds.....	700,801

Personal Service.....	37,634
Expense and Equipment.....	<u>400,000</u>
From Animal Health Laboratory Fee Fund.....	437,634

Personal Service.....	230,004
Expense and Equipment.....	<u>90,651</u>
From Animal Care Reserve Fund.....	320,655

To support the Livestock Brands Program

From Livestock Brands Fund.....	41,010
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For enforcement activities related to the Livestock Dealer Law

From Livestock Dealer Law Enforcement and Administration Fund.....	12,250
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For expenses incurred in regulating Missouri livestock markets

From Livestock Sales and Markets Fees Fund.....	32,565
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For processing livestock market bankruptcy claims

From Agriculture Bond Trustee Fund.....	135,000
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For the expenditures of contributions, gifts, and grants in support
of relief efforts to reduce the suffering of abandoned animals

From State Institutions Gift Trust Fund.....	<u>5,000</u>
Total (Not to exceed 82.00 F.T.E.).....	\$4,160,511

SECTION 6.060.— To the Department of Agriculture

For the Division of Animal Health

For brucellosis ear tags

From General Revenue Fund (0 F.T.E.).....	\$9,832
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SECTION 6.065.— To the Department of Agriculture

For the Division of Animal Health

For funding indemnity payments and indemnifying producers and owners

of livestock and poultry for preventing the spread of disease
during emergencies declared by the State Veterinarian, subject
to the approval by the Department of Agriculture of a state
match rate up to 50 percent

From General Revenue Fund (0 F.T.E.).....	\$9,000E
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SECTION 6.070.— To the Department of Agriculture

For the Division of Grain Inspection and Warehousing

Personal Service.	\$729,938
Expense and Equipment.	<u>116,689</u>
From General Revenue Fund.	846,627

Personal Service.	67,385
Expense and Equipment.	<u>23,000</u>
From Commodity Council Merchandising Fund.	90,385

Personal Service.	1,821,196
Expense and Equipment	312,107
Payment of Federal User Fee.	<u>100,000</u>
From Grain Inspection Fees Fund.	<u>2,233,303</u>
Total (Not to exceed 79.25 F.T.E.).	\$3,170,315

SECTION 6.075.— To the Department of Agriculture

For the Division of Grain Inspection and Warehousing

For the Missouri Aquaculture Council

From Aquaculture Marketing Development Fund. \$25,000E

For refunds to individuals and reimbursements to commodity councils

From Commodity Council Merchandising Fund. 85,000E

For research, promotion, and market development of apples

From Apple Merchandising Fund. 12,000E

For the Missouri Wine Marketing and Research Council

From Missouri Wine Marketing and Research Development Fund 15,000E

Total (0 F.T.E.). \$137,000

SECTION 6.080.— To the Department of Agriculture

For the Division of Plant Industries

Personal Service.	\$1,779,031
Expense and Equipment	253,700
For demonstration projects that utilize renewable inputs.	<u>92,145</u>
From General Revenue Fund.	2,124,876

Personal Service.	318,275
Expense and Equipment.	<u>548,463</u>
From Federal Funds.	<u>866,738</u>
Total (Not to exceed 61.00 F.T.E.).	\$2,991,614

SECTION 6.085.— To the Department of Agriculture

For the Division of Plant Industries

For the purpose of funding gypsy moth control, including education, research, and management activities, and for the receipt and disbursement of funds donated for gypsy moth control, including education, research, and management activities. Projects funded with donations, including those contributions made by supporting agencies and groups outside the Missouri Department of Agriculture, must receive prior approval from a steering

committee composed of one member each from the Missouri Departments of Agriculture, Conservation, Natural Resources, and Economic Development, the United States Department of Agriculture, the Missouri Wood Products Industry, the University of Missouri, and other groups as deemed necessary by the Gypsy Moth Advisory Council, to be co-chaired by the Departments of Agriculture and Conservation

Personal Service.....	\$41,251
Expense and Equipment.....	<u>15,000</u>
From General Revenue Fund.....	56,251
From Federal and Other Funds.....	<u>100,000</u>
Total (Not to exceed 2.00 F.T.E.).....	\$156,251

SECTION 6.090.— To the Department of Agriculture

For the Division of Plant Industries

For the purpose of funding boll weevil suppression and eradication

Personal Service.....	\$42,822
Expense and Equipment.....	<u>17,634</u>
From Boll Weevil Suppression and Eradication Fund (Not to exceed 1.00 F.T.E.).....	\$60,456

SECTION 6.095.— To the Department of Agriculture

For the Division of Weights and Measures

Personal Service.....	\$1,162,888
Expense and Equipment.....	<u>195,412</u>
From General Revenue Fund.....	1,358,300

Expense and Equipment	
From Federal Funds and Other Funds.....	26,624

Personal Service.....	1,268,112
Expense and Equipment.....	<u>819,261</u>
From Petroleum Inspection Fund.....	<u>2,087,373</u>
Total (Not to exceed 82.00 F.T.E.).....	\$3,472,297

SECTION 6.100.— To the Department of Agriculture

For the Missouri State Fair

Personal Service.....	\$649,841
Expense and Equipment.....	<u>56,833</u>
From General Revenue Fund.....	\$706,674

Personal Service.....	874,743
Expense and Equipment.....	<u>3,061,971</u>
From State Fair Fees Fund.....	<u>3,936,714</u>
Total (Not to exceed 61.75 F.T.E.).....	\$4,643,388

SECTION 6.105.— To the Department of Agriculture

For cash to start the Missouri State Fair

Expense and Equipment	
From State Fair Fees Fund.....	\$75,000
From State Fair Trust Fund.....	<u>10,000</u>
Total (0 F.T.E.).....	\$85,000

SECTION 6.110.— To the Department of Agriculture

For the Missouri State Fair

For equipment replacement

Expense and Equipment

From State Fair Fees Fund (0 F.T.E.). \$172,062

SECTION 6.115.— To the Department of Agriculture

For the State Milk Board

Personal Service. \$149,496

Expense and Equipment 24,800

For Personal Service and Expense and Equipment and for contractual

services with local health agencies.. . . . 138,898

From General Revenue Fund.. . . . 313,194

Personal Service. 197,731

Expense and Equipment 273,423

For Personal Service and Expense and Equipment and for contractual

services with local health agencies 1,288,970

From Milk Inspection Fees Fund 1,760,124

Expense and Equipment

From State Contracted Manufacturing Dairy Plant Inspection and

Grading Fee Fund. 8,000

Total (Not to exceed 10.00 F.T.E.).. . . . \$2,081,318

SECTION 6.200.— To the Department of Natural Resources

For the Office of the Director

Personal Service

From General Revenue Fund.. . . . \$273,680

Personal Service. 357,681

Expense and Equipment 100,038From Federal Funds and Other Funds 457,719

Total (Not to exceed 10.00 F.T.E.).. . . . \$731,399

SECTION 6.205.— To the Department of Natural Resources

For the Outreach and Assistance Center

Personal Service. \$1,678,526

Expense and Equipment.. . . . 727,681

From General Revenue Fund.. . . . 2,406,207

Personal Service. 2,728,317

Expense and Equipment 2,193,255From Federal Funds and Other Funds 4,921,572

Total (Not to exceed 117.01 F.T.E.).. . . . \$7,327,779

SECTION 6.210.— To the Department of Natural Resources

For the Outreach and Assistance Center

For the purpose of funding the promotion of energy, renewable energy,
and energy efficient state government

From Federal Funds. \$2,784,474E

From Utilicare Stabilization Fund.. . . . 100E

From Energy Set-Aside Program Fund 5,500,000E

From Petroleum Violation Escrow Fund	430,000
From Missouri Alternative Fuel Vehicle Loan Fund	300,000
From Biodiesel Fuel Revolving Fund.	<u>25,000</u>
Total (0 F.T.E.).	\$9,039,574

SECTION 6.215.— To the Department of Natural Resources

For the Outreach and Assistance Center

There is transferred out of the State Treasury, chargeable to the
 Petroleum Violation Escrow Fund, Eighty-seven Thousand, Five
 Hundred Dollars to the Petroleum Violation Escrow Interest
 Subaccount Fund

From Petroleum Violation Escrow Fund. \$87,500E

SECTION 6.220.— To the Department of Natural Resources

For the Outreach and Assistance Center

For historic restoration grants

From Federal Funds (0 F.T.E.). \$500,000

SECTION 6.225.— To the Department of Natural Resources

For the Outreach and Assistance Center

For funding environmental education, demonstration projects, and
 technical assistance grants

From Federal Funds (0 F.T.E.). \$125,000

SECTION 6.230.— To the Department of Natural Resources

For the Division of Administrative Support

Personal Service

From General Revenue Fund. \$802,567

Personal Service. 626,992

Expense and Equipment 1,084,979

From Federal Funds 1,711,971

Personal Service. 1,822,474

Personal Service and/or Expense and Equipment 191,523

Expense and Equipment 3,239,801

From Other Funds 5,253,798

Total (Not to exceed 94.81 F.T.E.). \$7,768,336

SECTION 6.235.— To the Department of Natural Resources

For the purpose of funding agency-wide operations

For Association Dues

From General Revenue Fund. \$74,747

Personal Service. 67,219

Expense and Equipment. 13,778

From State Highways and Transportation Department Fund 80,997

For State Auditor Billing

From Federal Funds and Other Funds 35,000

For Contractual Audits

From Federal Funds and Other Funds 350,000

Total (Not to exceed 2.00 F.T.E.). \$540,744

SECTION 6.245.— To the Department of Natural Resources

For the Board of Trustees for the Petroleum Storage Tank Insurance Fund

For the general administration and operation of the fund

Personal Service.	\$119,011
Expense and Equipment	2,719,300
For the purpose of funding the refunds of erroneously collected receipts	10,000E
For the purpose of funding claims obligations of the Petroleum Storage Tank Insurance Fund	24,990,000E
From Petroleum Storage Tank Insurance Fund (Not to exceed 3.00 F.T.E.). . .	\$27,838,311

SECTION 6.250.— To the Department of Natural Resources

For the State Environmental Improvement and Energy Resources

Authority

For all costs incurred in the operation of the authority, including
special studies

From State Environmental Improvement and Energy Resources Authority

Fund (0 F.T.E.). \$1E

SECTION 6.255.— To the Department of Natural Resources

For the Division of State Parks

For field operations, administration, and support

Personal Service.	\$109,489
Expense and Equipment.	51,148
From Federal Funds	160,637

Personal Service.	852,454
Expense and Equipment.	1,314,674
From State Park Earnings Fund.	2,167,128

Personal Service.	1,098,723
Expense and Equipment.	146,229
From Department of Natural Resources Cost Allocation Fund.	1,244,952

Personal Service.	256,740
Expense and Equipment.	111,327
From State Facility Maintenance and Operation Fund	368,067

Personal Service.	18,152,453
Personal Service and/or Expense and Equipment	296,000
Expense and Equipment	7,043,839
For payments to levee districts.	1E
From Parks Sales Tax Fund.	25,492,293

Personal Service.	10,893
Expense and Equipment.	600
From Meramec-Onondaga State Parks Fund	11,493

Personal Service.	206,148
Expense and Equipment.	106,579
From Babler State Park Fund.	312,727
Total (Not to exceed 755.52 F.T.E.).	\$29,757,297

SECTION 6.260.— To the Department of Natural Resources
 For the Division of State Parks
 For the Bruce R. Watkins Cultural Heritage Center
 From Parks Sales Tax Fund (0 F.T.E.). \$100,000

SECTION 6.265.— To the Department of Natural Resources
 For the Division of State Parks
 For the payment to counties in lieu of 2002 and prior years real
 property taxes, as appropriate, on lands acquired by the
 department after July 1, 1985, for park purposes and not more
 than the amount of real property tax imposed by political
 subdivisions at the time acquired, in accordance with the
 provisions of Section 47(a) of the Constitution of Missouri
 From Parks Sales Tax Fund (0 F.T.E.). \$40,000E

SECTION 6.270.— To the Department of Natural Resources
 For the Division of State Parks
 For Parks and Historic Sites
 For recoupments and donations that are consistent with current
 operations and conceptual development plans. The expenditure of
 any single directed donation of funds greater than \$500,000
 requires the approval of the chairperson or designee of both
 Senate Appropriations and House Budget committees.
 From State Park Earnings Fund (0 F.T.E.). \$100,000E

SECTION 6.275.— To the Department of Natural Resources
 For the Division of State Parks
 Expense and Equipment - for equipment replacement with up to
 five percent available for major servicing and repair of heavy
 equipment only
 From State Park Earnings Fund. \$2,147,500
 From Meramec-Onondaga State Parks Fund. 5,000
 Total (0 F.T.E.). \$2,152,500

SECTION 6.280.— To the Department of Natural Resources
 For the Division of State Parks
 For the purchase of publications, souvenirs, and other items for
 resale at state parks and state historic sites
 Expense and Equipment
 From State Park Earnings Fund (0 F.T.E.). \$500,000E

SECTION 6.285.— To the Department of Natural Resources
 For the Division of State Parks
 For all expenses incurred in the operation of state park concession
 projects or facilities when such operations are assumed by the
 Department of Natural Resources
 From State Park Earnings Fund (0 F.T.E.). \$200,000E

SECTION 6.290.— To the Department of Natural Resources
 For the Division of State Parks
 For the expenditure of grants to state parks
 From Federal Funds and Other Funds (0 F.T.E.). \$350,000

SECTION 6.295.— To the Department of Natural Resources
 For the Division of State Parks
 For Administration and Support
 For grants-in-aid from the Land and Water Conservation Fund and other
 funds to state agencies and political subdivisions for outdoor
 recreation projects
 From Federal Funds (0 F.T.E.) \$2,324,034

SECTION 6.300.— To the Department of Natural Resources
 For the Geological Survey and Resource Assessment Division
 For operational maintenance and repairs for state-owned facilities
 From Facilities Maintenance Reserve Fund (0 F.T.E.) \$8,759

SECTION 6.305.— To the Department of Natural Resources
 For the Geological Survey and Resource Assessment Division

 Personal Service. \$2,303,511
 Personal Service and/or Expense and Equipment 54,283
 Expense and Equipment. 501,657
 From General Revenue Fund. 2,859,451

 Personal Service. 2,586,515
 Expense and Equipment. 915,108
 From Federal Funds and Other Funds 3,501,623
 Total (Not to exceed 136.47 F.T.E.) \$6,361,074

SECTION 6.310.— To the Department of Natural Resources
 For the Geological Survey and Resource Assessment Division
 For expenditures in accordance with the provisions of Section
 259.190, RSMo
 From Oil and Gas Remedial Fund (0 F.T.E.) \$23,000E

SECTION 6.315.— To the Department of Natural Resources
 For the Geological Survey and Resource Assessment Division
 For surveying corners and for records restorations
 From Federal Funds and Other Funds (0 F.T.E.) \$240,000

SECTION 6.320.— To the Department of Natural Resources
 For the Water Protection and Soil Conservation Division and the Air
 and Land Protection Division
 Personal Service. \$5,230,557
 Expense and Equipment. 770,080
 From General Revenue Fund. 6,000,637

 Personal Service. 28,351,852
 Expense and Equipment 15,534,682
 From Federal Funds and Other Funds 43,886,534
 Total (Not to exceed 916.93 F.T.E.) \$49,887,171

SECTION 6.325.— To the Department of Natural Resources
 For the Water Protection and Soil Conservation Division and the Air
 and Land Protection Division
 For the purpose of funding a motor vehicle emissions program
 Personal Service. \$713,417
 Expense and Equipment. 725,030
 From Missouri Air Emission Reduction Fund, Federal Funds, and Other
 Funds, excluding General Revenue Fund (Not to exceed 22.00 F.T.E.). . . . \$1,438,447

SECTION 6.330.— To the Department of Natural Resources
 For the Water Protection and Soil Conservation Division and the Air
 and Land Protection Division
 For grants and contracts to study or reduce water pollution, improve
 ground water and/or surface water quality, for grants to
 colleges for wastewater operator training, and for grants for
 lake restoration
 From Federal Funds. \$1,444,925E
 From Natural Resources Protection Fund-Water Pollution Permit Subaccount 50,000

For drinking water sampling, analysis, and public drinking water
 quality and treatment studies
 From Safe Drinking Water Fund. 296,444
 Total (0 F.T.E.). \$1,791,369

SECTION 6.335.— To the Department of Natural Resources
 For the Water Protection and Soil Conservation Division
 For the state's share of construction grants for wastewater treatment
 facilities
 From Water Pollution Control Fund. \$3,000,000

For loans for wastewater treatment facilities pursuant to Sections
 644.026-644.124, RSMo
 From Water and Wastewater Loan Fund and/or Water and Wastewater
 Loan Revolving Fund 60,000,000

For rural sewer and water grants and loans
 From Water Pollution Control Fund. 20,660,000

For stormwater control grants or loans
 From Stormwater Control Fund 20,000,000

For loans for drinking water systems pursuant to Sections
 644.026-644.124, RSMo
 From General Revenue Fund. 2,476,350
 From Water and Wastewater Loan Fund and/or Water and Wastewater
 Loan Revolving Fund. 22,000,000
 Total (0 F.T.E.). \$128,136,350

SECTION 6.340.— There is transferred out of the State Treasury,
 chargeable to the Water Pollution Control Fund, Ten Million, Six
 Hundred Thousand Dollars to the Water and Wastewater Loan Fund
 and/or the Water and Wastewater Loan Revolving Fund
 From Water Pollution Control Fund. \$10,600,000

SECTION 6.345.— To the Department of Natural Resources
 For the Water Protection and Soil Conservation Division
 For closure of concentrated animal feeding operations
 From Concentrated Animal Feeding Operation Indemnity Fund (0 F.T.E.) \$100,000

SECTION 6.350.— To the Department of Natural Resources
 For the Water Protection and Soil Conservation Division
 For demonstration projects related to soil and water conservation
 From Federal Funds. \$100,000

For grants to local soil and water conservation districts. 7,661,992
 For soil and water conservation cost-share grants. 20,000,000
 For a loan interest-share program. 800,000
 For a special area land treatment program. 6,896,200
 For grants to colleges and universities for research projects on soil erosion
 and conservation. 160,000
 From Soil and Water Sales Tax Fund 35,518,192
 Total (0 F.T.E.). \$35,618,192

SECTION 6.355.— To the Department of Natural Resources
 For the Water Protection and Soil Conservation Division and the Air
 and Land Protection Division
 For expenditures of payments received for damages to the state's
 natural resources
 From Natural Resources Protection Fund-Damages Subaccount or Natural
 Resources Protection Fund-Water Pollution Permit Fee
 Subaccount (0 F.T.E.). \$269,711

SECTION 6.360.— To the Department of Natural Resources
 For the Air and Land Protection Division
 For grants to local air pollution control agencies and for grants to
 organizations for air pollution
 From Federal Funds. \$1,412,900
 From Natural Resources Protection Fund - Air Pollution Permit
 Fee Subaccount. 1,954,400

For asbestos grants to local air pollution control agencies
 From Natural Resources Protection Fund - Air Pollution Asbestos
 Fee Subaccount. 150,000
 Total (0 F.T.E.). \$3,517,300

SECTION 6.370.— To the Department of Natural Resources
 For the Air and Land Protection Division
 For the cleanup of leaking underground storage tanks
 From Federal Funds. \$800,000

For cleanup of controlled substances
 From Federal Funds 125,000E
 From Controlled Substances Cleanup Fund. 125,000

For the cleanup of hazardous waste sites
 From Federal Funds and Other Funds 1,000,000E
 From Hazardous Waste Remedial Fund 21,274E
 From Dry-cleaning Environmental Response Trust Fund. 200,000E
 Total (0 F.T.E.). \$2,271,274

SECTION 6.375.— To the Department of Natural Resources

For the Air and Land Protection Division

For implementation provisions of Solid Waste Management Law in
accordance with Sections 260.250, RSMo, through 260.345, RSMo,
and Section 260.432, RSMo

From Solid Waste Management Fund.	\$6,300,000
From Solid Waste Management Fund - Scrap Tire Subaccount	<u>1,637,000</u>
Total (0 F.T.E.).	\$7,937,000

SECTION 6.380.— To the Department of Natural Resources

For the Air and Land Protection Division

For funding expenditures of forfeited financial assurance instruments
to ensure proper closure and post closure of solid waste
landfills, with General Revenue Fund expenditures not to exceed
collections pursuant to Section 260.228, RSMo

From General Revenue Fund.	\$74,519E
From Post Closure Fund	<u>141,599E</u>
Total (0 F.T.E.).	\$216,118

SECTION 6.385.— To the Department of Natural Resources

For the Air and Land Protection Division

For the receipt and expenditure of bond forfeiture funds for the
reclamation of mined land

From Mined Land Reclamation Fund.	\$1,400,000
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For the reclamation of mined lands under the provisions of Section
444.960, RSMo

From Coal Mine Land Reclamation Fund	1,000,000
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For the reclamation of abandoned mined lands

From Federal Funds	3,500,000
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For contracts for hydrologic studies to assist small coal operators
to meet permit requirements

From Federal Funds.	<u>50,000</u>
Total (0 F.T.E.).	\$5,950,000

SECTION 6.390.— To the Department of Natural Resources

For the Air and Land Protection Division

For contracts for the analysis of hazardous waste samples

From Federal Funds.	\$100,000
From Hazardous Waste Remedial Fund and/or Hazardous Waste Fund	60,210

For the environmental emergency response system

From Hazardous Waste Fund.	30,000E
From Federal Funds	250,000

For emergency response loans in accordance with Section 260.546, RSMo

From Hazardous Waste Fund.	<u>150,000</u>
Total (0 F.T.E.).	\$590,210

SECTION 6.395.— To the Department of Natural Resources
 For the Air and Land Protection Division
 For funding the operation of a vehicle emission inspection
 maintenance facility in South County St. Louis
 From Federal Funds, Natural Resources Protection Fund-Air Pollution
 Permit Fee Subaccount, and Other Funds (0 F.T.E.). \$630,000

SECTION 6.397.— To the Department of Natural Resources
 There is transferred out of the State Treasury, chargeable to the Natural
 Resources Protection Fund - Water Pollution Permit Fee
 Subaccount, Five Hundred Thousand Dollars (\$500,000) to the
 General Revenue Fund
 From Natural Resources Protection Fund - Water Pollution Permit Fee
 Subaccount. \$500,000

SECTION 6.400.— To the Department of Natural Resources
 For revolving services
 Expense and Equipment
 From Natural Resources Revolving Services Fund (0 F.T.E.). \$2,644,470

SECTION 6.405.— To the Department of Natural Resources
 For the purpose of funding the refund of erroneous collected receipts
 From any funds administered by the Department of Natural Resources,
 except General Revenue Fund (0 F.T.E.). \$250,000E

SECTION 6.410.— To the Department of Natural Resources
 For sales tax on retail sales
 From any funds administered by the Department of Natural Resources,
 except General Revenue Fund (0 F.T.E.). \$235,000E

SECTION 6.415.— To the Department of Natural Resources
 For minority and under-represented student scholarships
 From General Revenue Fund. \$50,000
 From Recruitment and Retention Scholarship Fund. 50,000
 Total (0 F.T.E.). \$100,000

SECTION 6.420.— There is transferred out of the State Treasury to the
 Department of Natural Resources Cost Allocation Fund
 From Missouri Air Emission Reduction Fund. \$278,390
 From Solid Waste Management Fund 240,626
 From Metallic Minerals Waste Management Fund 16,799
 From Water and Wastewater Loan Fund. 148,799
 From Hazardous Waste Remedial Fund 272,682
 From State Park Earnings Fund. 777,915
 From Historic Preservation Revolving Fund. 18,944
 From Natural Resources Protection Fund 8,483
 From Natural Resources Protection Fund - Water Pollution Permit
 Fee Subaccount 836,061
 From Solid Waste Management Fund - Scrap Tire Subaccount 75,382
 From Natural Resources Protection Fund - Air Pollution Asbestos
 Fee Subaccount. 41,290
 From Petroleum Storage Tank Insurance Fund 321,247

From Underground Storage Tank Regulation Program Fund.....	44,119
From Natural Resources Protection Fund - Air Pollution Permit Fee Subaccount	944,824
From Parks Sales Tax Fund.....	4,362,837
From Soil and Water Sales Tax Fund	639,838
From Groundwater Protection Fund	69,475
From Energy Set-Aside Program Fund	151,497
From State Land Survey Program Fund.....	273,599
From Hazardous Waste Fund.....	428,550
From Safe Drinking Water Fund.	428,885
From Missouri Air Pollution Control Fund	10,111
From Petroleum Violation Escrow Interest Subaccount Fund.	62,990
Total.	<u>\$10,453,343</u>

SECTION 6.600.— To the Department of Conservation

For Personal Service and Expense and Equipment, including refunds;
and for payments to counties for the unimproved value of land in
lieu of property taxes for privately owned lands acquired by the
Conservation Commission after July 1, 1977 and for lands
classified as forest croplands

From Conservation Commission Fund (Not to exceed 1,871.61 F.T.E.). . . . \$125,071,345

BILL TOTALS

General Revenue.....	\$30,866,303
Federal Funds.....	43,898,719
Other Funds.....	<u>421,279,497</u>
Total.	<u>\$496,044,519</u>

Approved June 26, 2002

HB 1107 [CCS SCS HCS HB 1107]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF ECONOMIC DEVELOPMENT, DEPARTMENT OF INSURANCE AND DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Economic Development, Department of Insurance, and Department of Labor and Industrial Relations, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2002 and ending June 30, 2003.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2002 and ending June 30, 2003, as follows:

SECTION 7.005.— To the Department of Economic Development

For general administration of Administrative Services

Personal Service.	\$1,277,387
Personal Service and/or Expense and Equipment	67,230
Expense and Equipment.	<u>336,976</u>
From General Revenue Fund.	1,681,593

Personal Service.	3,510,793
Personal Service and/or Expense Equipment	180,497
Expense and Equipment.	<u>1,858,666</u>
From Federal Funds	5,549,956

Personal Service.	1,164,456
Personal Service and/or Expense and Equipment	61,287
Expense and Equipment	2,071,592
For refunds.	<u>5,000E</u>
From Department of Economic Development Administrative Fund.	<u>3,302,335</u>
Total (Not to exceed 168.76 F.T.E.).	\$10,533,884

SECTION 7.010.— To the Department of Economic Development

For the Missouri WORKS Program

Personal Service.	\$459,465
Personal Service and/or Expense and Equipment	24,182
Expense and Equipment.	<u>72,630</u>
From General Revenue Fund (Not to exceed 11.00 F.T.E.).	\$556,277

SECTION 7.015.— To the Department of Economic Development

There is transferred, for mailroom and support services,
 administrative services, rent for state office buildings by the
 Department of Economic Development, and information systems, the
 following amounts to the Department of Economic Development
 Administrative Fund

From Federal Funds.	\$247,990E
From Division of Tourism Supplemental Revenue Fund	159,347E
From State Highways and Transportation Department Fund	124,715E
From Railroad Expense Fund	20,774E
From Division of Finance Fund.	80,504E
From Division of Credit Unions Fund.	32,588E
From Manufactured Housing Fund	11,065E
From Public Service Commission Fund.	208,224E
From Professional Registration Fees Fund.	<u>593,586E</u>
Total.	\$1,478,793

SECTION 7.020.— To the Department of Economic Development

For general administration of Business Development activities

Personal Service.	\$810,499
Personal Service and/or Expense and Equipment	42,657
Expense and Equipment.	<u>1,713,896</u>
From General Revenue Fund.	2,567,052

Personal Service	
From Federal Funds and Other Funds	62,381

Personal Service.	87,269
Expense and Equipment.	<u>25,600</u>
From Department of Economic Development Administrative Fund.	112,869

Expense and Equipment	
From International Promotions Revolving Fund	75,000E

Personal Service	
From Missouri Technology Investment Fund	50,050

For the Business Extension Service Team Program	
From Business Extension Service Team Fund.	1,854,000

For the National Institute of Standards/Missouri Manufacturing Extension Partnership	
All Expenditures	
From Federal Funds	2,200,000E
From Private Contributions	2,600,000E
For Innovation Centers	864,118
For Missouri Manufacturing Extension Partnership.	<u>1,791,358</u>
From Missouri Technology Investment Fund.	<u>2,655,476</u>
Total (Not to exceed 27.75 F.T.E.).	\$12,176,828

SECTION 7.030. — To the Department of Economic Development

There is transferred out of the State Treasury, chargeable to the

General Revenue Fund, Two Million, Seven Hundred Five Thousand,
Five Hundred Twenty-six Dollars to the Missouri Technology
Investment Fund, for the National Institute of
Standards/Missouri Manufacturing Extension Partnership, and
Innovation Centers

From General Revenue Fund.	\$2,705,526
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SECTION 7.035. — To the Department of Economic Development

For general administration of Business Expansion and Attraction activities

Personal Service.	\$898,413
Personal Service and/or Expense and Equipment	47,284
Expense and Equipment.	<u>975,463</u>
From General Revenue Fund.	1,921,160

Personal Service.	65,720
Expense and Equipment.	<u>6,974</u>
From Federal Funds	72,694

Personal Service	
From Federal Funds and Other Funds	84,016

Personal Service.	325,888
Expense and Equipment.	<u>88,389</u>
From Missouri Job Development Fund.	<u>414,277</u>
Total (Not to exceed 35.50 F.T.E.).	\$2,492,147

SECTION 7.040.— To the Department of Economic Development
 For the Missouri Community College New Jobs Training Program
 For funding training of workers by community college districts
 From Missouri Community College Job Training Program Fund (0 F.T.E.)... \$16,000,000

SECTION 7.045.— To the Department of Economic Development
 For funding new and expanding industry training programs and basic
 industry retraining programs
 From Missouri Job Development Fund (0 F.T.E.)... \$8,783,104

SECTION 7.050.— To the Department of Economic Development
 There is transferred out of the State Treasury, chargeable to the
 General Revenue Fund, Eight Million, Eight Hundred Forty-nine
 Thousand, Four Hundred Twenty-two Dollars (\$8,849,422) to the
 Missouri Job Development Fund
 From General Revenue Fund... \$8,849,422

SECTION 7.055.— To the Department of Economic Development
 For general administration of Community Development activities
 Personal Service... \$835,935
 Personal Service and/or Expense and Equipment... 43,996
 Expense and Equipment... 320,200
 From General Revenue Fund... 1,200,131

Personal Service... 548,243
 Expense and Equipment... 411,983
 From Federal Funds... 960,226

For the Missouri Main Street Program
 From Missouri Main Street Program Fund... 67,000

For Community Development programs
 From Federal Funds... 28,000,000E

For the Missouri Community Services Commission
 Personal Service
 From General Revenue Fund... 35,979

Personal Service... 106,238
 Expense and Equipment... 2,513,300E
 From Federal Funds and Other Funds... 2,619,538

For the Brownfields Redevelopment Program
 From Property Reuse Fund... 2,900,000

For Community Development Corporations, job training, or retraining activities
 Personal Service... 51,703
 Expense and Equipment... 14,100
 From General Revenue Fund... 65,803

For Community Development Corporations, job training, or retraining activities
 From General Revenue Fund... 885,910
 From Federal Funds and Other Funds... 250,000
 From Department of Economic Development Administrative Fund... 250,000

For the Youth Opportunities and Violence Prevention Program
 From Youth Opportunities and Violence Prevention Fund. 250,000
 Total (Not to exceed 43.25 F.T.E.). \$37,484,587

SECTION 7.058. — To the Department of Economic Development
 There is transferred out of the State Treasury, chargeable to the
 Property Reuse Fund, Two Million Dollars to the General Revenue
 Fund
 From Property Reuse Fund. \$2,000,000

SECTION 7.060. — To the Department of Economic Development
 There is transferred out of the State Treasury, chargeable to the
 General Revenue Fund, Two Million, Nine Hundred Seven Thousand,
 Two Hundred Forty-nine Dollars to the Missouri Supplemental Tax
 Increment Financing Fund
 From General Revenue Fund. \$2,907,249

SECTION 7.065. — To the Department of Economic Development
 For Missouri supplemental tax increment financing as provided in
 Section 99.845, RSMo. This appropriation may be used for the
 following projects: Kansas City Midtown, Excelsior Springs Elms
 Hotel, Independence Santa Fe Trail Neighborhood, St. Louis City
 Convention Hotel, Cupples Station, Three Trails Center, Jordan
 Valley Park and Branson Project. In accordance with Section
 99.845, RSMo, the appropriation shall not be made unless the
 applications for the projects have been approved by the Director
 of the Department of Economic Development and the Commissioner
 of the Office of Administration
 From Missouri Supplemental Tax Increment Financing Fund (0 F.T.E.). \$2,907,249

SECTION 7.070. — To the Department of Economic Development
 For the Missouri Rural Opportunities Council
 Personal Service. \$73,108
 Expense and Equipment and/or Program Distribution. 42,254
 From Federal Funds (Not to exceed 2.00 F.T.E.). \$115,362

SECTION 7.075. — To the Department of Economic Development
 For Rural Development grants
 From General Revenue Fund (0 F.T.E.). \$315,000

SECTION 7.080. — To the Department of Economic Development
 There is transferred out of the State Treasury, chargeable to the
 General Revenue Fund, Sixty-seven Thousand Dollars to the
 Missouri Main Street Program Fund
 From General Revenue Fund. \$67,000

SECTION 7.085. — To the Department of Economic Development
 For the Missouri State Council on the Arts
 Personal Service. \$344,751
 Expense and Equipment. 3,566,530
 From General Revenue Fund. 3,911,281

Personal Service.	253,777
Expense and Equipment.	<u>699,021</u>
From Federal Funds	952,798

Personal Service.	89,420
Expense and Equipment	<u>1,271,000</u>
From Missouri Arts Council Trust Fund.	1,360,420

For the Missouri State Council on the Arts

For the Missouri Humanities Council

From Federal Funds.	<u>532,000</u>
Total (Not to exceed 18.00 F.T.E.).	\$6,756,499

SECTION 7.100.— To the Department of Economic Development

For general administration of Workforce Development activities to support current Federal Grant and Contract Programs including Workforce Investment Act, Wagner-Peyser Act, Job Corps, Alien Labor Certification, Welfare to Work, TANF, METP, WOTC, Veterans' Programs, NAFTA, TAA Troops to Teachers, ONET, DYS, ETA, BLS Programs, and Probation and Parole

For the Division of Workforce Development

Personal Service.	\$42,742
Expense and Equipment.	<u>20,226</u>
From General Revenue Fund.	62,968

Personal Service.	19,355,460
Expense and Equipment	<u>4,497,911E</u>
From Federal Funds.	<u>23,853,371</u>
Total (Not to exceed 606.22 F.T.E.).	\$23,916,339

SECTION 7.105.— To the Department of Economic Development

For job training and related activities

From Federal Funds and Other Funds.	\$71,450,000
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For administration of programs authorized and funded by the United States Department of Labor, such as Trade Adjustment Assistance (TAA), and provided that all funds shall be expended from discrete accounts and that no monies shall be expended for funding administration of these programs by the Division of Workforce Development

From Federal Funds.	<u>6,000,000</u>
Total (0 F.T.E.).	\$77,450,000

SECTION 7.110.— To the Department of Economic Development

For the Missouri Women's Council

Personal Service.	\$110,304
Expense and Equipment.	<u>39,171</u>
From General Revenue Fund (Not to exceed 3.00 F.T.E.).	\$149,475

SECTION 7.120.— To the Department of Economic Development

For the purchase, lease, and renovation of buildings, land, and erection of buildings

From Special Employment Security Fund (0 F.T.E.).	\$216,000
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SECTION 7.125.— To the Department of Economic Development
For the Division of Tourism to include coordination of advertising of
at least \$170,000 for the Missouri State Fair

Personal Service.....	\$1,512,896
Expense and Equipment	14,039,830
From Division of Tourism Supplemental Revenue Fund	15,552,726

Expense and Equipment	
From Tourism Marketing Fund.	15,000
Total (Not to exceed 47.00 F.T.E.).	\$15,567,726

SECTION 7.130.— To the Department of Economic Development
There is transferred out of the State Treasury, chargeable to the
General Revenue Fund, Fifteen Million, One Hundred Eighty-eight
Thousand, Six Hundred Sixty-eight Dollars to the Division of
Tourism Supplemental Revenue Fund

From General Revenue Fund.	\$15,188,668
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SECTION 7.135.— To the Department of Economic Development

For general administration of Affordable Housing activities

For the Missouri Housing Development Commission

For funding housing subsidy grants or loans

From Missouri Housing Trust Fund (0 F.T.E.).	\$4,500,000E
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SECTION 7.140.— To the Department of Economic Development

For Manufactured Housing

Personal Service.....	\$336,548
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Expense and Equipment	171,323
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For Manufactured Housing programs.	7,935E
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For refunds.....	10,000E
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From Manufactured Housing Fund (Not to exceed 11.00 F.T.E.).	\$525,806
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SECTION 7.145.— To the Department of Economic Development

For general administration of Financial Institution Safety and

Soundness activities

For the Division of Credit Unions

Personal Service.....	\$716,477
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Expense and Equipment.	138,274
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From Division of Credit Unions Fund (Not to exceed 15.50 F.T.E.).	\$854,751
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SECTION 7.150.— To the Department of Economic Development

For the Division of Finance

Personal Service.....	\$4,283,023
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Expense and Equipment.	832,325
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From Division of Finance Fund (Not to exceed 99.15 F.T.E.).	\$5,115,348
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SECTION 7.155.— To the Department of Economic Development

There is transferred out of the Division of Savings and Loan

Supervision Fund, Thirty-nine Thousand, Four Hundred Dollars to
the Division of Finance Fund, for the purpose of supervising
state chartered savings and loan associations

From Division of Savings and Loan Supervision Fund.	\$39,400E
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SECTION 7.160.— To the Department of Economic Development

There is transferred out of the Division of Finance Fund, One

Million, Forty-nine Thousand, Seven Hundred Twenty-three Dollars

to the General Revenue Fund in accordance with Section 361.170,

RSMo

From Division of Finance Fund. \$1,049,723E

SECTION 7.165.— To the Department of Economic Development

There is transferred out of the Division of Savings and Loan

Supervision Fund, Six Thousand Nine Hundred Nine Dollars to the

General Revenue Fund in accordance with Section 369.324, RSMo

From Division of Savings and Loan Supervision Fund. \$6,909E

SECTION 7.170.— To the Department of Economic Development

There is transferred out of the Residential Mortgage Licensing Fund,

One Hundred Fifty Thousand Dollars to the Division of Finance

Fund, for the purpose of administering the Residential Mortgage

Licensing Law

From Residential Mortgage Licensing Fund. \$150,000E

SECTION 7.175.— To the Department of Economic Development

For the Division of Motor Carrier and Railroad Safety

Personal Service. \$408,400

Expense and Equipment. 470,233

From Federal Funds 878,633

Personal Service. 1,950,771

Expense and Equipment. 519,315

From State Highways and Transportation Department Fund 2,470,086

Personal Service. 437,769

Expense and Equipment. 157,159

From Railroad Expense Fund 594,928

From Light Rail Safety Fund. 15,000E

Total (Not to exceed 72.00 F.T.E.). \$3,958,647

SECTION 7.180.— To the Department of Economic Development

There is transferred out of the Railroad Expense Fund, One Hundred

Eighty Thousand Dollars to the State Highways and Transportation

Department Fund

From Railroad Expense Fund. \$180,000E

SECTION 7.185.— To the Department of Economic Development

There is transferred out of the Light Rail Safety Fund, Three

Thousand Five Hundred Dollars to the Railroad Expense Fund

From Light Rail Safety Fund. \$3,500E

SECTION 7.190.— To the Department of Economic Development

There is transferred out of the Light Rail Safety Fund, Three

Thousand Five Hundred Dollars to the State Highways and

Transportation Department Fund

From Light Rail Safety Fund. \$3,500E

SECTION 7.195.— To the Department of Economic Development
 There is transferred out of the Grade Crossing Safety Account, One
 Hundred Thousand Dollars to the Railroad Expense Fund
 From Grade Crossing Safety Account. \$100,000

SECTION 7.200.— To the Department of Economic Development
 For the Office of Public Counsel
 Personal Service. \$718,398
 Expense and Equipment. 211,737
 From General Revenue Fund (Not to exceed 16.00 F.T.E.). \$930,135

SECTION 7.205.— To the Department of Economic Development
 For general administration of Utility Regulation activities
 For the Public Service Commission
 Personal Service. \$9,417,895
 Expense and Equipment 3,738,714
 For refunds. 10,000E
 From Public Service Commission Fund. 13,166,609

For Deaf Relay Service and Equipment Distribution Program
 From Deaf Relay Service and Equipment Distribution Program Fund 5,000,000

Expense and Equipment
 From Manufactured Housing Fund. 2,235
 Total (Not to exceed 209.00 F.T.E.). \$18,168,844

SECTION 7.210.— To the Department of Economic Development
 For general administration of the Division of Professional Registration
 Personal Service. \$2,885,143
 Expense and Equipment 2,457,225
 For examination fees 88,000E
 For refunds. 35,000E
 From Professional Registration Fees Fund (Not to exceed 90.02 F.T.E.). \$5,465,368

SECTION 7.215.— To the Department of Economic Development
 For the State Board of Accountancy
 Personal Service. \$230,966
 Expense and Equipment 195,718
 From State Board of Accountancy Fund (Not to exceed 7.00 F.T.E.). \$426,684

SECTION 7.220.— To the Department of Economic Development
 For the State Board of Architects, Professional Engineers, and Land
 Surveyors, and Landscape Architects
 Personal Service. \$318,170
 Expense and Equipment 412,932
 For examination fees 93,985E
 From State Board for Architects, Professional Engineers, Land Surveyors,
 and Landscape Architects Fund (Not to exceed 10.00 F.T.E.). \$825,087

SECTION 7.225.— To the Department of Economic Development
 For the State Board of Barber Examiners
 Expense and Equipment
 From Board of Barbers Fund (0 F.T.E.). \$38,271

SECTION 7.230.— To the Department of Economic Development

For the State Board of Chiropractic Examiners

Expense and Equipment

From State Board of Chiropractic Examiners' Fund (0 F.T.E.). \$151,052

SECTION 7.235.— To the Department of Economic Development

For the State Board of Cosmetology

Expense and Equipment

From State Board of Cosmetology Fund (0 F.T.E.). \$259,418

SECTION 7.240.— To the Department of Economic Development

For the Missouri Dental Board

Personal Service. \$321,528

Expense and Equipment 265,924

From Dental Board Fund (Not to exceed 9.00 F.T.E.). \$587,452

SECTION 7.245.— To the Department of Economic Development

For the State Board of Embalmers and Funeral Directors

Expense and Equipment

From Board of Embalmers and Funeral Directors' Fund (0 F.T.E.). \$149,634

SECTION 7.250.— To the Department of Economic Development

For the State Board of Registration for the Healing Arts

Personal Service. \$1,571,343

Expense and Equipment 702,605

For payment of fees for testing services. 187,568E

From Board of Registration for Healing Arts Fund (Not to exceed 45.08 F.T.E.). \$2,461,516

SECTION 7.255.— To the Department of Economic Development

For the State Board of Nursing

Personal Service. \$879,649

Expense and Equipment 758,360

For criminal history checks. 174,979E

From State Board of Nursing Fund (Not to exceed 28.50 F.T.E.). \$1,812,988

SECTION 7.260.— To the Department of Economic Development

For the State Board of Optometry

Expense and Equipment

From Optometry Fund (0 F.T.E.). \$42,604

SECTION 7.265.— To the Department of Economic Development

For the State Board of Pharmacy

Personal Service. \$567,135

Expense and Equipment 206,192

For criminal history check of prospective licenses 41,140E

From Board of Pharmacy Fund (Not to exceed 14.00 F.T.E.). \$814,467

SECTION 7.270.— To the Department of Economic Development

For the State Board of Podiatric Medicine

Expense and Equipment

From State Board of Podiatric Medicine Fund (0 F.T.E.). \$21,681

SECTION 7.275.— To the Department of Economic Development

For the Missouri Real Estate Commission

Personal Service.	\$816,684
Expense and Equipment.	294,734
From Real Estate Commission Fund (Not to exceed 26.00 F.T.E.).	<u>\$1,111,418</u>

SECTION 7.280.— To the Department of Economic Development

For the Missouri Veterinary Medical Board

Expense and Equipment.	\$71,096
For payment of fees for testing services	<u>40,000E</u>
From Veterinary Medical Board Fund (0 F.T.E.).	<u>\$111,096</u>

SECTION 7.285.— To the Department of Economic Development

There is transferred out of the Escrow Agent Administration Fund,

Fifteen Thousand Dollars to the Real Estate Commission Fund for
the purpose of administering the Escrow Agent Law

From Escrow Agent Administration Fund.	\$15,000E
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SECTION 7.290.— To the Department of Economic Development

For funding transfer of funds to the General Revenue Fund

From State Board of Accountancy Fund.	\$26,500E
From State Board for Architects, Professional Engineers, Land Surveyors, and Landscape Architects Fund	119,200E
From Athletic Fund	14,400E
From Board of Barbers Fund	7,700E
From State Board of Chiropractic Examiners' Fund	8,000E
From Clinical Social Workers Fund.	8,200E
From State Board of Cosmetology Fund	55,000E
From Committee of Professional Counselors Fund	15,000E
From Dental Board Fund	31,200E
From Dietitian Fund.	1,200E
From Board of Embalmers and Funeral Directors' Fund.	51,500E
From Endowed Care Cemetery Audit Fund.	9,100E
From the Board of Geologist Registration Fund.	7,200E
From Board of Registration for Healing Arts Fund	190,000E
From Hearing Instrument Specialist Fund.	7,700E
From Interior Designer Council Fund.	1,200E
From Landscape Architectural Council Fund.	2,900E
From Marital and Family Therapists' Fund	2,200E
From State Board of Nursing Fund	128,400E
From Missouri Board of Occupational Therapy Fund	6,100E
From Optometry Fund.	7,750E
From Board of Pharmacy Fund.	74,000E
From State Board of Podiatric Medicine Fund.	5,500E
From State Committee of Psychologists Fund	26,000E
From Missouri Real Estate Appraisers Fund.	51,000E
From Respiratory Care Practitioners Fund	5,000E
From State Committee of Interpreters Fund.	5,700E
From Real Estate Commission Fund	101,000E
From Veterinary Medical Board Fund	15,500E
From Acupuncturist Fund.	3,000E
From Tattoo Fund	2,500E

From Massage Therapy Fund.	<u>5,200E</u>
Total.	\$994,850

SECTION 7.300.— To the Department of Economic Development

There is transferred, for payment of operating expenses, the

following amounts to the Professional Registration Fees Fund

From State Board of Accountancy Fund.	\$115,601E
From State Board for Architects, Professional Engineers, Land Surveyors, and Landscape Architects Fund	232,535E
From Athletic Fund	189,295E
From Board of Barbers Fund	165,059E
From State Board of Chiropractic Examiners' Fund	123,529E
From Clinical Social Workers Fund.	205,293E
From State Board of Cosmetology Fund	1,259,535E
From Committee of Professional Counselors Fund	248,693E
From Dental Board Fund	67,922E
From Dietitian Fund.	34,718E
From Board of Embalmers and Funeral Directors' Fund.	316,715E
From Endowed Care Cemetery Audit Fund.	106,176E
From the Board of Geologist Registration Fund.	55,012E
From Board of Registration for Healing Arts Fund	387,661E
From Hearing Instrument Specialist Fund.	73,080E
From Interior Designer Council Fund.	42,037E
From Marital and Family Therapists' Fund	17,211E
From State Board of Nursing Fund	876,104E
From Missouri Board of Occupational Therapy Fund	127,663E
From Optometry Fund.	75,255E
From Board of Pharmacy Fund.	195,140E
From State Board of Podiatric Medicine Fund.	26,473E
From State Committee of Psychologists Fund	338,454E
From Missouri Real Estate Appraisers Fund.	361,713E
From Respiratory Care Practitioners Fund	137,692E
From State Committee of Interpreters Fund.	12,129E
From Real Estate Commission Fund	466,043E
From Veterinary Medical Board Fund	171,129E
From Tattoo Fund	7,240E
From Acupuncturist Fund.	1,635E
From Massage Therapy Fund.	<u>83,103E</u>
Total.	\$6,519,845

SECTION 7.700.— To the Department of Insurance

Personal Service.	\$4,973,628
Expense and Equipment	<u>1,967,156</u>
From Department of Insurance Dedicated Fund (Not to exceed 144.50 F.T.E.).	\$6,940,784

SECTION 7.705.— To the Department of Insurance

For market conduct and financial examinations of insurance companies

Personal Service.	\$5,333,899
Expense and Equipment	<u>2,095,607</u>
From Insurance Examiners Fund (Not to exceed 82.00 F.T.E.).	\$7,429,506

SECTION 7.710.— To the Department of Insurance

For refunds

From Insurance Examiners Fund.	\$1E
From Department of Insurance Dedicated Fund.	<u>25,000E</u>
Total (0 F.T.E.).	\$25,001E

SECTION 7.715.— To the Department of InsuranceFor the purpose of funding programs providing counseling on health
insurance coverage and benefits to Medicare beneficiaries

From Federal Funds (0 F.T.E.).	\$450,000
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SECTION 7.800.— To the Department of Labor and Industrial Relations

For the Director and Staff

For life insurance costs

From General Revenue Fund.	\$120
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Personal Service.	525,436E
Expense and Equipment.	<u>1,553,866E</u>
For life insurance costs.	87,602
From Unemployment Compensation Administration Fund.	<u>2,166,904</u>

Personal Service.	7,070,714
Expense and Equipment.	<u>9,081,383</u>
From Department of Labor and Industrial Relations Administrative Fund.	16,152,097

Personal Service.	23,184
Expense and Equipment.	<u>2,350</u>
For life insurance costs.	795
From Workers' Compensation Fund.	<u>26,329</u>

For life insurance costs

From Crime Victims' Compensation Fund.	<u>75</u>
Total (Not to exceed 185.39 F.T.E.).	\$18,345,525

SECTION 7.805.— To the Department of Labor and Industrial Relations

There is transferred, for payment of administrative costs, the

following amounts to the Department of Labor and Industrial
Relations Administrative Fund

From General Revenue Fund.	\$624,564
From Federal Funds.	14,599,762
From Workers' Compensation Fund.	3,156,622
From Crime Victims' Compensation Fund.	124,920
From Special Employment Security Fund.	<u>120,000</u>
Total.	\$18,625,868

SECTION 7.810.— To the Department of Labor and Industrial Relations

For the Labor and Industrial Relations Commission

Personal Service.	\$14,082
Expense and Equipment.	<u>2,090</u>
From General Revenue Fund.	16,172

Personal Service.	235,237
Expense and Equipment.	<u>43,266</u>
From Unemployment Compensation Administration Fund.	<u>278,503</u>

Personal Service.	507,799
Expense and Equipment.	<u>93,396</u>
From Workers' Compensation Fund.	<u>601,195</u>
Total (Not to exceed 15.00 F.T.E.).	<u>\$895,870</u>

SECTION 7.815.— To the Department of Labor and Industrial Relations
For the Division of Labor Standards

For Administration	
Personal Service.	\$1,190,198
Expense and Equipment.	<u>235,822</u>
From General Revenue Fund.	<u>1,426,020</u>
Personal Service.	191,346
Expense and Equipment.	<u>169,470</u>
From Federal Funds.	<u>360,816</u>

Expense and Equipment	
From Child Labor Enforcement Fund.	<u>200,000</u>
Total (Not to exceed 36.70 F.T.E.).	<u>\$1,986,836</u>

SECTION 7.820.— To the Department of Labor and Industrial Relations
For the Division of Labor Standards

For safety and health programs	
Personal Service and/or Expense and Equipment	
From General Revenue Fund.	\$98,500
Personal Service.	547,540
Expense and Equipment	<u>218,078E</u>
From Federal Funds.	<u>765,618</u>
Total (Not to exceed 13.00 F.T.E.).	<u>\$864,118</u>

SECTION 7.825.— To the Department of Labor and Industrial Relations
For the Division of Labor Standards

For mine safety and health training programs	
Personal Service and/or Expense and Equipment	
From General Revenue Fund.	\$74,248
Personal Service.	255,839
Expense and Equipment	<u>106,985E</u>
From Federal Funds.	<u>362,824</u>
Total (Not to exceed 6.00 F.T.E.).	<u>\$437,072</u>

SECTION 7.830.— To the Department of Labor and Industrial Relations
For the State Board of Mediation

Personal Service.	\$124,715
Expense and Equipment.	<u>34,807</u>
From General Revenue Fund (Not to exceed 3.00 F.T.E.).	<u>\$159,522</u>

SECTION 7.835.— To the Department of Labor and Industrial Relations
For the Division of Workers' Compensation

For the purpose of funding Administration	
Personal Service.	\$8,131,202

Expense and Equipment	1,501,178
There is transferred from the Workers' Compensation Fund to the Kids' Chance Scholarship Fund.....	<u>50,000</u>
From Workers' Compensation Fund.	9,682,380

Personal Service.....	36,012
Expense and Equipment.	<u>10,255</u>
From Tort Victims' Compensation Fund	46,267

Personal Service	
From Crime Victims' Compensation Fund.....	<u>21,600</u>
Total (Not to exceed 179.75 F.T.E.).	\$9,750,247

SECTION 7.840.— To the Department of Labor and Industrial Relations

For the Division of Workers' Compensation

For payment of special claims

From Second Injury Fund (0 F.T.E.).	\$35,000,000E
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SECTION 7.845.— To the Department of Labor and Industrial Relations

For the Division of Workers' Compensation

For Crime Victims' Administration

Expense and Equipment

From Federal Funds.	\$50,000
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Personal Service.....	262,909
Expense and Equipment.	<u>101,558</u>
From Crime Victims' Compensation Fund.....	<u>364,467</u>
Total (Not to exceed 9.00 F.T.E.).	\$414,467

SECTION 7.850.— To the Department of Labor and Industrial Relations

For the Division of Workers' Compensation

For payments of claims to crime victims

From Federal Funds.	\$1,700,001E
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From Crime Victims' Compensation Fund.....	<u>4,599,999E</u>
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Total (0 F.T.E.).	\$6,300,000
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SECTION 7.855.— To the Department of Labor and Industrial Relations

There is transferred, for payment of office space costs, the

following amounts to the Workers' Compensation Fund

From Federal Funds.	\$30,548
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From Crime Victims' Compensation Fund.....	<u>190</u>
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Total.	\$30,738
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SECTION 7.860.— To the Department of Labor and Industrial Relations

For the Division of Employment Security

Personal Service.....	\$27,797,496E
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Expense and Equipment	<u>8,623,488E</u>
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From Unemployment Compensation Administration Fund

(Not to exceed 792.57 F.T.E.).	\$36,420,984
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SECTION 7.865.— To the Department of Labor and Industrial Relations
For the Division of Employment Security

For administration of programs authorized and funded by the United
States Department of Labor, such as Disaster Unemployment
Assistance (DUA), and provided that all funds shall be expended
from discrete accounts and that no monies shall be expended for
funding administration of these programs by the Division of
Employment Security
From Unemployment Compensation Administration Fund (0 F.T.E.). \$9,000,000E

SECTION 7.870.— To the Department of Labor and Industrial Relations
For the Division of Employment Security

Personal Service. \$100,569
Expense and Equipment 1,280,000E
From Special Employment Security Fund (Not to exceed 2.71 F.T.E.). \$1,380,569

SECTION 7.875.— To the Department of Labor and Industrial Relations
For the Division of Employment Security

For the payment of refunds set-off against debts as required by
Section 143.786, RSMo
From Debt Offset Escrow Fund (0 F.T.E.). \$1,600,000E

SECTION 7.880.— To the Department of Labor and Industrial Relations
For the Governor's Council on Disability

Personal Service. \$204,354
Expense and Equipment. 245,016
From General Revenue Fund. 449,370

Personal Service. 243,074
Expense and Equipment. 591,893
From Federal Funds 834,967

Personal Service. 187,100
Expense and Equipment 2,467,914
From Deaf Relay Service and Equipment Distribution Program Fund. 2,655,014

Program Specific Distribution
For general program administration, including all expenditures for
the Assistive Technology Loan Program

From Assistive Technology Loan Revolving Fund. 1,000,000
Total (Not to exceed 16.70 F.T.E.). \$4,939,351

SECTION 7.885.— To the Department of Labor and Industrial Relations
For the Missouri Commission on Human Rights

Personal Service. \$1,191,084
Expense and Equipment. 111,141
From General Revenue Fund. 1,302,225

Personal Service. 639,620E
Expense and Equipment. 187,000E
From Federal Funds. 826,620
Total (Not to exceed 49.45 F.T.E.). \$2,128,845

BILL TOTALS

General Revenue.....	\$48,151,370
Federal Funds.....	211,428,522
Other Funds.....	<u>145,033,898</u>
Total.....	\$404,613,790

Approved June 26, 2002

HB 1108 [CCS SCS HCS HB 1108]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF PUBLIC SAFETY.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Public Safety, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2002 and ending June 30, 2003.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2002 and ending June 30, 2003, as follows:

SECTION 8.005. — To the Department of Public Safety

For the Office of the Director

Personal Service.....	\$1,136,890
Expense and Equipment.....	<u>494,363</u>
From General Revenue Fund.....	1,631,253

Personal Service.....	372,505
Expense and Equipment	209,594
Program Specific Distribution.....	<u>200,000</u>
From Federal Funds	782,099

Personal Service.....	226,396
Expense and Equipment.....	<u>206,073</u>
From Crime Victims' Compensation Fund.....	432,469

Expense and Equipment	
From Firing Range Fee Fund	1,500
From Missouri Crime Prevention Information and Programming Fund.....	<u>50,000</u>
Total (Not to exceed 45.78 F.T.E.)	\$2,897,321

SECTION 8.010.— To the Department of Public Safety
For the Office of the Director
For operational maintenance and repairs for state-owned facilities
From Facilities Maintenance Reserve Fund (0 F.T.E.). \$185,889

SECTION 8.015.— To the Department of Public Safety
For the Office of the Director
For the Juvenile Justice Challenge Grant Program
From Federal Funds (0 F.T.E.). \$350,000

SECTION 8.020.— To the Department of Public Safety
For the Office of the Director
For the Juvenile Justice Delinquency Prevention Program
From Federal Funds (0 F.T.E.). \$2,500,000

SECTION 8.025.— To the Department of Public Safety
For the Office of the Director
For the Juvenile Justice Accountability Incentive Block Grant Program
From Federal Funds (0 F.T.E.). \$6,419,607

SECTION 8.030.— To the Department of Public Safety
For the Office of the Director
For the Local Government/School District Partnership Program
From General Revenue Fund (0 F.T.E.). \$600,000

SECTION 8.035.— To the Department of Public Safety
For the Office of the Director
For the Local Law Enforcement Block Grant Program
From Federal Funds (0 F.T.E.). \$675,000

SECTION 8.040.— To the Department of Public Safety
For the Office of the Director
For the Narcotics Control Assistance Program
From Federal Funds (0 F.T.E.). \$11,000,000

SECTION 8.055.— To the Department of Public Safety
For the Office of the Director
For the Services to Victims Program
From Services to Victims Fund. \$3,700,000

For counseling and other support services for crime victims
From Crime Victims' Compensation Fund. 50,000
Total (0 F.T.E.). \$3,750,000

SECTION 8.060.— To the Department of Public Safety
For the Office of the Director
For the Victims of Crime Program
From Federal Funds (0 F.T.E.). \$9,000,000

SECTION 8.065.— To the Department of Public Safety
For the Office of the Director
For the Violence Against Women Program
From Federal Funds (0 F.T.E.). \$3,200,000

SECTION 8.070. — To the Department of Public Safety For the purpose of funding regional crime labs on a matching reimbursement basis of one dollar of state funding for each dollar of regional funding provided through fees or contributions that may be collected from local law enforcement agencies in Missouri up to the limit of this appropriation. Support of any non-law enforcement agency, any agency or institution of state government, any agency funded principally through federal entitlement or grant, or any law enforcement agency in a metropolitan area having a population exceeding one hundred thousand shall not be included in determining the regional funding used to calculate the amount of matching state funds	
From General Revenue Fund (0 F.T.E.).	\$380,000
 SECTION 8.085. — To the Department of Public Safety For the State Forensic Laboratory Program From State Forensic Laboratory Fund (0 F.T.E.).	
	\$266,000
 SECTION 8.090. — To the Department of Public Safety For the Office of the Director For the Residential Substance Abuse Treatment Program From Federal Funds (0 F.T.E.).	
	\$1,227,000
 SECTION 8.095. — To the Department of Public Safety For the Office of the Director For peace officer training From Peace Officer Standards and Training Commission Fund (0 F.T.E.).	
	\$1,500,000
 SECTION 8.105. — To the Department of Public Safety For the Capitol Police Personal Service. Expense and Equipment. From General Revenue Fund.	
	\$1,345,640
	591,944
	1,937,584
 Expense and Equipment From Federal Funds. Total (Not to exceed 43.00 F.T.E.).	
	18,241
	\$1,955,825
 SECTION 8.110. — To the Department of Public Safety For the State Highway Patrol Administration For the High-Intensity Drug Trafficking Area Program From Federal Funds.	
	\$3,200,000
 Personal Service. Expense and Equipment. From State Highways and Transportation Department Fund	
	3,566,636
	316,607
	3,883,243
 Expense and Equipment From Gaming Commission Fund. Total (Not to exceed 92.00 F.T.E.).	
	4,865
	\$7,088,108

SECTION 8.115. — To the Department of Public Safety

For the State Highway Patrol

For fringe benefits, including retirement contributions for members

of the Highways and Transportation Employees' and Highway Patrol

Retirement System, and insurance premiums

Personal Service. \$3,010,509E

Expense and Equipment. 278,337E

From General Revenue Fund. 3,288,846

Personal Service. 826,070E

Expense and Equipment. 59,010E

From Federal Funds 885,080

Personal Service. 63,042E

Expense and Equipment. 7,655E

From Gaming Commission Fund. 70,697

Personal Service. 28,898,692E

Expense and Equipment 2,672,341E

From State Highways and Transportation Department Fund 31,571,033

Personal Service. 700,547E

Expense and Equipment. 53,185E

From Criminal Record System Fund 753,732

Personal Service. 10,970E

Expense and Equipment. 1,138E

From Criminal Justice Network and Technology Revolving Fund. 12,108

Total (0 F.T.E.). \$36,581,496**SECTION 8.120.** — To the Department of Public Safety

For the State Highway Patrol

Funds are to be transferred out of the State Treasury, chargeable to

the Federal Drug Seizure Fund, to the General Revenue Fund

From Federal Drug Seizure Fund (0 F.T.E.). \$711,590

SECTION 8.125. — To the Department of Public Safety

For the State Highway Patrol

For the Enforcement Program

Personal Service. \$5,636,557

Expense and Equipment. 1,084,997

From General Revenue Fund. 6,721,554

Personal Service. 1,747,094

Expense and Equipment. 9,986,867

From Federal Funds 11,733,961

Personal Service. 48,638,260

Expense and Equipment. 4,253,046

From State Highways and Transportation Department Fund 52,891,306

Personal Service.....	933,482
Expense and Equipment	<u>1,560,102</u>
From Criminal Record System Fund	2,493,584

Expense and Equipment	
From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund.	262,000

Personal Service.....	21,265
Expense and Equipment.....	<u>84,908</u>
From Gaming Commission Fund.....	106,173

For the State Highway Patrol

All expenditures must be in compliance with the United States

Department of Justice equitable sharing program guidelines

Expense and Equipment

From General Revenue Fund.....	<u>562,380</u>
Total (Not to exceed 1,403.00 F.T.E.).....	\$74,770,958

SECTION 8.130.— To the Department of Public Safety

For the State Highway Patrol

For gasoline expenses for State Highway Patrol vehicles, including
aircraft, and Gaming Commission vehicles

Expense and Equipment

From General Revenue Fund.....	\$144,743
From Gaming Commission Fund.....	186,661
From State Highways and Transportation Department Fund	<u>1,733,377</u>
Total (0 F.T.E.).....	\$2,064,781

SECTION 8.135.— To the Department of Public Safety

For the State Highway Patrol

For purchase of vehicles for the State Highway Patrol and the Gaming Commission

Expense and Equipment

From General Revenue Fund.....	\$165,538
From State Highways and Transportation Department Fund	3,823,946
From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund.	6,051,134
From Gaming Commission Fund.....	<u>510,065</u>
Total (0 F.T.E.).....	\$10,550,683

SECTION 8.140.— To the Department of Public Safety

For the State Highway Patrol

For the State Highway Patrol Crime Labs

Personal Service.....
 \$1,218,981 |

Expense and Equipment.....
 337,281 |

From General Revenue Fund.....	1,556,262
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Personal Service.....	300,723
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Expense and Equipment.....	177,191
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For grants to St. Louis City and St. Louis County Forensic DNA Labs.....	<u>377,698</u>
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From Federal Funds	855,612
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Personal Service.....	463,175
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Expense and Equipment.....	<u>89,989</u>
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From State Highways and Transportation Department Fund	553,164
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Personal Service.	61,376
Expense and Equipment.	<u>3,600</u>
From Criminal Record System Fund	64,976

Expense and Equipment	
From State Forensic Laboratory Fund.	60,000

For the State Highway Patrol

All expenditures must be in compliance with the United States

Department of Justice equitable sharing program guidelines

Expense and Equipment	
From General Revenue Fund.	<u>13,800</u>
Total (Not to exceed 58.25 F.T.E.).	\$3,103,814

SECTION 8.145.— To the Department of Public Safety

For the State Highway Patrol

For the Law Enforcement Academy

Personal Service.	\$126,328
Expense and Equipment.	<u>53,260</u>
From General Revenue Fund.	179,588

Personal Service.	83,129
Expense and Equipment.	<u>87,859</u>
From Federal Funds	170,988

For the DARE Regional Training Center

Personal Service.	94,004
Expense and Equipment.	<u>159,256</u>
From Federal Funds	253,260

Personal Service.	143,232
Expense and Equipment.	<u>132,112</u>
From Gaming Commission Fund.	275,344

Personal Service.	828,971
Expense and Equipment.	<u>144,139</u>
From State Highways and Transportation Department Fund	973,110

Expense and Equipment	
From Highway Patrol Academy Fund.	<u>600,000</u>
Total (Not to exceed 42.00 F.T.E.).	\$2,452,290

SECTION 8.150.— To the Department of Public Safety

For the State Highway Patrol

For Vehicle and Driver Safety

Expense and Equipment	
From Federal Funds.	\$82,550

Personal Service.	8,857,396
Expense and Equipment.	<u>827,137</u>
From State Highways and Transportation Department Fund	9,684,533

Expense and Equipment
 From Missouri Air Pollution Control Fund 137,347

Expense and Equipment
 From Highway Patrol Inspection Fund. 37,725
 Total (Not to exceed 285.00 F.T.E.). \$9,942,155

SECTION 8.155.— To the Department of Public Safety

For the State Highway Patrol

For the purpose of refunding unused motor vehicle inspection stickers

From Missouri Air Pollution Control Fund. \$10,000E
 From State Highways and Transportation Department Fund 40,000E
 Total (0 F.T.E.). \$50,000

SECTION 8.160.— To the Department of Public Safety

For the State Highway Patrol

For Technical Services

Personal Service. \$388,111
 Expense and Equipment. 289,505
 From General Revenue Fund. 677,616

Personal Service. 275,197
 Expense and Equipment. 10,107,263
 From Federal Funds 10,382,460

Personal Service. 9,117,639
 Expense and Equipment. 5,131,647
 From State Highways and Transportation Department Fund 14,249,286

Personal Service. 718,856
 Expense and Equipment. 3,613,970
 From Criminal Record System Fund 4,332,826

Personal Service
 From Gaming Commission Fund. 18,582

Personal Service. 29,394
 Expense and Equipment. 2,201,000E
 From Criminal Justice Network and Technology Revolving Fund. 2,230,394

For the State Highway Patrol

All expenditures must be in compliance with the United States

Department of Justice equitable sharing program guidelines

Expense and Equipment

From General Revenue Fund. 135,410
 Total (Not to exceed 273.00 F.T.E.). \$32,026,574

SECTION 8.165.— To the Department of Public Safety

For the State Water Patrol

Funds are to be transferred out of the State Treasury, chargeable to
 the Federal Drug Seizure Fund, to the General Revenue Fund

From Federal Drug Seizure Fund (0 F.T.E.). \$42,122

***SECTION 8.170.**— To the Department of Public Safety

For the State Water Patrol

Personal Service.	\$4,177,390
Expense and Equipment.	<u>483,751</u>
From General Revenue Fund.	4,661,141

Personal Service.	281,949
Expense and Equipment	<u>1,436,728</u>
From Federal Funds	1,718,677

For the State Water Patrol

All expenditures must be in compliance with the United States

Department of Justice equitable sharing program guidelines

Expense and Equipment

From General Revenue Fund.	<u>42,122</u>
Total (Not to exceed 121.50 F.T.E.).	\$6,421,940

*I hereby veto \$84,550 federal funds for the Missouri State Water Patrol for a new lieutenant colonel position. Adding a position from federal funds would result in fewer federal funds being available for ongoing, operating expenses. Given the scarcity of general revenue funds statewide — and the critical importance of maintaining Water Patrol operations — such a redirection of federal funds would be unwise at this time.

Personal Service by \$84,550 from \$281,949 to \$197,399

From \$1,718,677 to \$1,634,127 in total from Federal Funds

From \$6,421,940 to \$6,337,390 in total for the section.

BOB HOLDEN, Governor

SECTION 8.175.— To the Department of Public Safety

For the Division of Liquor Control

Personal Service.	\$2,873,822
Expense and Equipment.	<u>666,575</u>
From General Revenue Fund.	3,540,397

Personal Service.	180,063
Expense and Equipment.	<u>79,258</u>
From Federal Funds	259,321

Personal Service.	94,104
Expense and Equipment.	<u>36,960</u>
From Healthy Families Trust Fund - Tobacco Prevention Account.	<u>131,064</u>
Total (Not to exceed 81.35 F.T.E.).	\$3,930,782

SECTION 8.180.— To the Department of Public Safety

For the Division of Liquor Control

For refunds for unused liquor and beer licenses and for liquor and

beer stamps not used and canceled

From General Revenue Fund (0 F.T.E.).	\$18,000E
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SECTION 8.185.— To the Department of Public Safety

For the Division of Fire Safety

Personal Service.....	\$1,916,272
Expense and Equipment.....	390,431
From General Revenue Fund.....	<u>2,306,703</u>

Personal Service.....	109,428
Expense and Equipment.....	59,617
From Elevator Safety Fund.....	<u>169,045</u>
Total (Not to exceed 58.92 F.T.E.).....	<u>\$2,475,748</u>

SECTION 8.190.— To the Department of Public Safety

For the Division of Fire Safety

For firefighter training contracted services

Expense and Equipment	
From General Revenue Fund.....	\$354,442
From Chemical Emergency Preparedness Fund.....	<u>142,237</u>
Total (0 F.T.E.).....	<u>\$496,679</u>

SECTION 8.195.— To the Department of Public Safety

For the Division of Highway Safety

Personal Service.....	\$438,207
Expense and Equipment.....	<u>74,021</u>
From Federal Funds.....	<u>512,228</u>

Personal Service.....	360,279
Expense and Equipment.....	<u>95,899</u>
From State Highways and Transportation Department Fund.....	<u>456,178</u>

Expense and Equipment	
From Motorcycle Safety Trust Fund.....	<u>50,000</u>
Total (Not to exceed 19.00 F.T.E.).....	<u>\$1,018,406</u>

SECTION 8.200.— To the Department of Public Safety

For the Division of Highway Safety

For all allotments, grants, and contributions from federal sources

that may be deposited in the State Treasury for grants of

National Highway Safety Act moneys

From Federal Funds (0 F.T.E.).....	<u>\$19,800,000</u>
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SECTION 8.210.— To the Department of Public Safety

For the Division of Highway Safety

For the Motor Carrier Safety Assistance Program

From Federal Funds (0 F.T.E.).....	<u>\$1,350,000E</u>
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SECTION 8.215.— To the Department of Public Safety

For the Missouri Veterans' Commission

For Administration and Service to Veterans

Personal Service.....	\$1,656,052
Expense and Equipment.....	<u>251,099</u>
From General Revenue Fund.....	<u>1,907,151</u>

Personal Service.	460,221
Expense and Equipment.	<u>724,353</u>
From Missouri Veterans' Homes Fund	1,184,574

Personal Service.	724,980
Expense and Equipment.	<u>676,250</u>
From Veterans' Commission Capital Improvement Trust Fund	1,401,230

Personal Service.	52,200
Expense and Equipment.	<u>36,500</u>
From Veterans' Trust Fund.	<u>88,700</u>
Total (Not to exceed 96.27 F.T.E.)	\$4,581,655

SECTION 8.216.— To the Department of Public Safety

For the Missouri Veterans' Commission

For Veterans' Service Officer Programs

From Veterans' Commission Capital Improvement Trust Fund (0 F.T.E.). \$750,000

SECTION 8.220.— To the Department of Public Safety

For the Missouri Veterans' Commission

For Missouri Veterans' Homes

Personal Service.	\$6,811,310
Expense and Equipment.	<u>341,121</u>
From General Revenue Fund.. . . .	7,152,431

Personal Service.	21,926,676
Expense and Equipment.	<u>12,269,758</u>
From Missouri Veterans' Homes Fund	34,196,434

Expense and Equipment	
From Veterans' Trust Fund.	52,500

Personal Service	
From Veterans' Commission Capital Improvement Trust Fund.	<u>23,400</u>
Total (Not to exceed 1,212.49 F.T.E.).	\$41,424,765

SECTION 8.225.— To the Department of Public Safety

For the Gaming Commission

For the Divisions of Gaming and Bingo

Personal Service.	\$10,763,479
Expense and Equipment.	<u>2,211,614</u>
From Gaming Commission Fund.. . . .	12,975,093

Expense and Equipment	
From Compulsive Gamblers Fund.	<u>40,000</u>
Total (Not to exceed 236.00 F.T.E.).	\$13,015,093

SECTION 8.230.— To the Department of Public Safety

For the Gaming Commission

For fringe benefits, including retirement contributions for members
of the Highways and Transportation Employees' and Highway Patrol
Retirement System, and insurance premiums for State Highway

Patrol employees assigned to work under the direction of the Gaming Commission	
Personal Service Benefits.	\$2,901,983E
Expense and Equipment.	<u>161,619E</u>
From Gaming Commission Fund (0 F.T.E.).. . . .	\$3,063,602

SECTION 8.235. — To the Department of Public Safety
For the Gaming Commission
For refunding any overpayment or erroneous payment of any amount that
is credited to the Gaming Commission Fund
From Gaming Commission Fund (0 F.T.E.).. . . . \$100,000E

SECTION 8.240. — To the Department of Public Safety
For the Gaming Commission
For refunding any overpayment or erroneous payment of any amount
received for bingo fees
From Bingo Proceeds for Education Fund (0 F.T.E.). \$5,000E

SECTION 8.245. — To the Department of Public Safety
For the Gaming Commission
For breeder incentive payments
From Missouri Breeders Fund (0 F.T.E.).. . . . \$5,000

SECTION 8.250. — To the Department of Public Safety
For the Adjutant General
Funds are to be transferred out of the State Treasury, chargeable to
the Federal Drug Seizure Fund, to the General Revenue Fund
From Federal Drug Seizure Fund (0 F.T.E.).. . . . \$57,147

SECTION 8.255. — To the Adjutant General	
For Missouri Military Forces Administration	
Personal Service.	\$1,789,608
Expense and Equipment.	<u>202,878</u>
From General Revenue Fund.	1,992,486

All expenditures must be in compliance with the United States	
Department of Justice equitable sharing program guidelines	
Expense and Equipment	
From General Revenue Fund.	<u>57,147</u>
Total (Not to exceed 60.98 F.T.E.).	\$2,049,633

SECTION 8.260. — To the Adjutant General
For activities in support of the Guard
Expense and Equipment
From the Missouri National Guard Trust Fund (0 F.T.E.). \$2,000

SECTION 8.270. — To the Adjutant General
For the National Guard Tuition Assistance Program
From Missouri National Guard Trust Fund (0 F.T.E.).. . . . \$2,762,400

SECTION 8.275.— To the Adjutant General

For the Military Honors Program

Personal Service.	\$1,031,810
Expense and Equipment.	<u>1,219,325</u>
From Missouri National Guard Trust Fund (Not to exceed 43.40 F.T.E.).	\$2,251,135

SECTION 8.280.— To the Adjutant General

For operational maintenance and repairs for state and federally owned facilities

From Federal Funds.	\$100,000
From Facilities Maintenance Reserve Fund	<u>399,881</u>
Total (0 F.T.E.).	\$499,881

SECTION 8.285.— To the Adjutant General

For Missouri Military Forces Field Support

Personal Service.	\$874,074
Expense and Equipment	<u>329,605</u>
Fuel and Utilities	<u>1,276,779</u>
From General Revenue Fund (Not to exceed 52.08 F.T.E.).	\$2,480,458

SECTION 8.290.— To the Adjutant General

For fuel and utility expenses at armories from armory rental fees

Expense and Equipment	
From Adjutant General Revolving Fund (0 F.T.E.).	\$25,000E

SECTION 8.295.— To the Adjutant General

For training site operating costs

Expense and Equipment	
From Missouri National Guard Training Site Fund (0 F.T.E.).	\$244,800E

SECTION 8.300.— To the Adjutant General

For Missouri Military Forces Contract Services

Personal Service.	\$557,544
Expense and Equipment.	<u>452,830</u>
From General Revenue Fund.	<u>1,010,374</u>

Personal Service.	6,885,421
Expense and Equipment	<u>6,900,000E</u>

For refunds of federal overpayments to the state for the Contract Services

Program.	<u>30,000E</u>
From Federal Funds	<u>13,815,421</u>
Total (Not to exceed 249.06 F.T.E.).	\$14,825,795

SECTION 8.305.— To the Adjutant General

For the Challenge Youth Program

Personal Service.	\$606,831
Expense and Equipment.	<u>402,639</u>
From General Revenue Fund.	<u>1,009,470</u>

Personal Service.	877,555
Expense and Equipment.	<u>847,852</u>

From Federal Funds	<u>1,725,407</u>
Total (Not to exceed 53.50 F.T.E.).	\$2,734,877

SECTION 8.310.— To the Adjutant General

For the Troupers Training School

Personal Service

From General Revenue Fund. \$131,181

Personal Service. 371,449

Expense and Equipment. 637,838E

From Federal Funds 1,009,287

Personal Service

From Missouri National Guard Training Site Fund. 16,068Total (Not to exceed 17.55 F.T.E.). \$1,156,536**SECTION 8.315.**— To the Adjutant General

For the Office of Air Search and Rescue

Expense and Equipment

From General Revenue Fund (0 F.T.E.). \$19,449

SECTION 8.320.— To the Adjutant General

For the State Emergency Management Agency

For Administration and Emergency Operations

Personal Service. \$1,521,486

Expense and Equipment 252,970

For local hazard mitigation projects under the Flood Mitigation

Assistance Program. 100,000From General Revenue Fund. 1,874,456

Personal Service. 974,756

Expense and Equipment. 216,023From Federal Funds 1,190,779

Personal Service. 161,988

Expense and Equipment. 68,884From Chemical Emergency Preparedness Fund. 230,872

For Missouri Task Force One Urban Search and Rescue Team

From General Revenue Fund. 75,000

From Federal Funds. 75,000Total (Not to exceed 69.26 F.T.E.). \$3,446,107**SECTION 8.325.**— To the Adjutant General

For the State Emergency Management Agency

For the Community Right-to-Know Act

From Chemical Emergency Preparedness Fund. \$650,000

For distribution of funds to local emergency planning commissions to
implement the federal Hazardous Materials Transportation Uniform
Safety Act of 1990From Federal Funds. 350,000Total (0 F.T.E.). \$1,000,000

SECTION 8.330.— To the Adjutant General

For the State Emergency Management Agency

For all allotments, grants, and contributions from federal and other
sources that are deposited in the State Treasury for
administrative and training expenses of the State Emergency
Management Agency

From Federal and Other Funds. \$1,500,000E

For all allotments, grants, and contributions from federal and other
sources that are deposited in the State Treasury for the use of
the State Emergency Management Agency for alleviating distress
from disasters

From Missouri Disaster Fund. 500,000E

To provide matching funds for federal grants received under Public
Law 93-288 and for emergency assistance expenses of the State
Emergency Management Agency as provided in Section 44.032, RSMo
From General Revenue Fund. 1E

Total (0 F.T.E.). \$2,000,001

SECTION 8.331.— To the Department of Public Safety

For the State Emergency Management Agency

For the purposes of funding homeland security initiatives to be
administered by the State Emergency Management Agency with
written notification of distributions of funds given to the
House Budget Committee Chair and the Senate Appropriations
Committee Chair

To the Office of Governor. \$1E

To the Office of Administration. 1E

To the Department of Agriculture 1E

To the Department of Natural Resources 1E

From Federal Homeland Security Fund (0 F.T.E.). \$4E

SECTION 8.332.— To the Department of Public Safety

For implementing homeland security measures

From General Revenue Fund. \$343,351

From Homeland Security Fund. 1E

Total (Not to exceed 4.00 F.T.E.). \$343,352

SECTION 8.335.— Funds are to be transferred out of the State

Treasury, chargeable to the Veterans' Commission Capital
Improvement Trust Fund, to the Veterans' Homes Fund

From Veterans' Commission Capital Improvement Trust Fund. \$500,000E

SECTION 8.340.— Funds are to be transferred out of the State

Treasury, chargeable to the Gaming Commission Fund, to the
Veterans' Commission Capital Improvement Trust Fund

From Gaming Commission Fund. \$3,000,000

SECTION 8.345.— Funds are to be transferred out of the State

Treasury, chargeable to the Gaming Commission Fund, to the
Missouri National Guard Trust Fund

From Gaming Commission Fund. \$3,000,000

SECTION 8.350.— Funds are to be transferred out of the State
 Treasury, chargeable to the Gaming Commission Fund, to the
 Missouri College Guarantee Fund
 From Gaming Commission Fund. \$4,500,000E

SECTION 8.355.— Funds are to be transferred out of the State
 Treasury, chargeable to the Gaming Commission Fund, to the Early
 Childhood Development, Education and Care Fund
 From Gaming Commission Fund. \$28,152,762E

SECTION 8.360.— Funds are to be transferred out of the State
 Treasury, chargeable to the Highway Patrol Inspection Fund, to
 the State Road Fund
 From Highway Patrol Inspection Fund. \$1E

SECTION 8.365.— Funds are to be transferred out of the State
 Treasury, chargeable to the Gaming Commission Fund, to the
 Compulsive Gamblers Fund
 From Gaming Commission Fund. \$489,850

BILL TOTALS

General Revenue.. . . .	\$46,970,334
Federal Funds.	106,641,983
Other Funds.	<u>209,137,512</u>
Total.	\$362,749,829

Approved June 26, 2002

HB 1109 [CCS SCS HCS HB 1109]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF CORRECTIONS.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Corrections and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2002 and ending June 30, 2003.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each Department, Division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2002 and ending June 30, 2003, as follows:

SECTION 9.005.— To the Department of Corrections

For the purpose of funding the Office of the Director

Personal Service.	\$2,575,657
Expense and Equipment.	<u>202,686</u>
From General Revenue Fund.	2,778,343

Expense and Equipment	
From Crime Victims' Compensation Fund.	82,500

For the purpose of funding a Sentencing and Offender Reentry Task

Force to review, monitor, and evaluate, the implementation of sentencing and offender reentry programs. The department shall contract with a community based not-for-profit agency certified by a recognized national body and demonstrates a record of providing successful job placement, training and retention services to provide an employment placement program for female inmates preparing for release from a state correctional facility and who will be returning or locating in the St. Louis Metropolitan area. Such a program shall also include assessment, job readiness training, job placement, job retention services, follow-up services and other wrap-around services necessary for success for up to 150 female inmates scheduled to be released on parole. The department shall provide quarterly reports to the House of Representatives and Senate on the results of the program in order to show efficacy

Personal Service.	105,000
Expense and Equipment	15,000
Program Specific Distribution.	<u>400,000</u>
From General Revenue Fund.	520,000

Expense and Equipment	
From Federal Funds.	<u>50,000</u>
Total (Not to exceed 86.74 F.T.E.).	\$3,430,843

SECTION 9.010.— To the Department of Corrections

For the Office of the Director

For the purpose of funding General Services

Personal Service.	\$2,325,920
Expense and Equipment.	<u>577,602</u>
From General Revenue Fund.	2,903,522

Personal Service	
From Working Capital Revolving Fund.	<u>71,325</u>
Total (Not to exceed 84.58 F.T.E.).	\$2,974,847

SECTION 9.015.— To the Department of Corrections

For the Office of the Director

For the purpose of funding all grants and contributions of funds from the federal government or from any other source which may be deposited in the State Treasury for the use of the Department of Corrections

Personal Service.	\$2,154,587
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Expense and Equipment	6,110,808
Personal Service and/or Expense and Equipment.....	<u>800,000</u>
From Federal Funds (Not to exceed 57.00 F.T.E.).	\$9,065,395

SECTION 9.020.— To the Department of Corrections

For the Office of the Director

For the purpose of funding data processing and information systems

costs department-wide

Personal Service..... \$2,358,291

Expense and Equipment .. 4,527,337

From General Revenue Fund (Not to exceed 57.79 F.T.E.)..... \$6,885,628

SECTION 9.025.— To the Department of Corrections

For the Office of the Director

For the purpose of funding the Inmate Fund Programs

Personal Service..... \$719,191

Expense and Equipment. 126,097

From Inmate Revolving Fund (Not to exceed 21.00 F.T.E.). \$845,288

SECTION 9.030.— To the Department of Corrections

For the Office of the Director

For the purpose of funding the expense of fuel and utilities department-wide

Expense and Equipment

From General Revenue Fund. \$20,351,796

From Working Capital Revolving Fund. 1,000,000

Total \$21,351,796

SECTION 9.031.— To the Board of Public Buildings

For the Department of Corrections

For payment of rent by the Department of Corrections to the Board for
the Farmington Correctional Center and Fulton Reception and
Diagnostic Center. Funds to be used by the Board for fuel and
utilities.

Expense and Equipment

From General Revenue Fund \$2,568,750

SECTION 9.035.— To the Department of Corrections

For the Office of the Director

For the purpose of funding the expense of telecommunications

department-wide

Expense and Equipment

From General Revenue Fund. \$2,837,118

From Federal Funds 1,000,000

From Working Capital Revolving Fund. 256,400

Total. \$4,093,518

SECTION 9.040.— To the Department of Corrections

For the Office of the Director

For the purchase, transportation and storage of food, and food
service items at all correctional institutions

Expense and Equipment

From General Revenue Fund. \$24,365,372

From Federal Funds. 450,000

Total (0 F.T.E.)..... \$24,815,372

SECTION 9.045.— To the Department of Corrections

For the Office of the Director

For the purpose of funding the inmate wage and discharge costs at all
correctional facilities

Expense and Equipment

From General Revenue Fund (0 F.T.E.). \$4,407,194

SECTION 9.055.— To the Department of Corrections

For the Office of the Director

For the purpose of funding the expenses and small equipment purchases
at any of the adult institutions department-wide

Expense and Equipment

From General Revenue Fund (0 F.T.E.). \$18,386,875

SECTION 9.060.— To the Department of Corrections

For the Office of the Director

For the purpose of funding the operational maintenance and repairs
for state-owned facilities

Expense and Equipment

From Facilities Maintenance Reserve Fund (0 F.T.E.). \$1,218,750

SECTION 9.065.— To the Department of Corrections

For the Office of the Director

For Public School Retirement contributions

From General Revenue Fund (0 F.T.E.). \$1,792

SECTION 9.070.— To the Department of Corrections

For the Office of the Director

For the purpose of funding costs associated with increased inmate
population department-wide, including, but not limited to
funding for Personal Service, Expense and equipment, contractual
services, repairs, renovations, and capital improvements

From General Revenue Fund \$39,898,310

SECTION 9.100.— To the Department of Corrections

For the purpose of funding the Division of Human Services

Personal Service. \$4,819,187

Expense and Equipment. 365,806From General Revenue Fund. 5,184,993

Expense and Equipment

From Federal Funds. 31,823Total (Not to exceed 144.58 F.T.E.). \$5,216,816**SECTION 9.105.**— To the Department of Corrections

For the Division of Human Services

For the purpose of funding training costs department-wide

Expense and Equipment

From General Revenue Fund. \$1,725,207

SECTION 9.110.— To the Department of Corrections

For the Division of Human Services

For the purpose of funding employee health and safety

Expense and Equipment

From General Revenue Fund. \$414,367

SECTION 9.200.— To the Department of Corrections

For the purpose of funding the Division of Adult Institutions

For the Central Office

Personal Service. \$1,968,394

Expense and Equipment. 212,796

From General Revenue Fund. 2,181,190

Personal Service

From Working Capital Revolving Fund. 53,760

For the purpose of funding compensatory and holiday pay

From General Revenue Fund. 3,300,000Total (Not to exceed 66.70 F.T.E.). \$5,534,950**SECTION 9.205.**— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Jefferson City Correctional Center

Personal Service

From General Revenue Fund. \$17,477,810

From Working Capital Revolving Fund. 188,161Total (Not to exceed 652.91 F.T.E.). \$17,665,971**SECTION 9.210.**— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Central Missouri Correctional Center

at Jefferson City

Personal Service

From General Revenue Fund (Not to exceed 284.87 F.T.E.). \$7,748,855

SECTION 9.215.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Women's Eastern Reception and

Diagnostic Center at Vandalia

Personal Service

From General Revenue Fund (Not to exceed 411.00 F.T.E.). \$10,765,736

SECTION 9.220.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Ozark Correctional Center at Fordland

Personal Service

From General Revenue Fund. \$4,324,122

From Inmate Revolving Fund. 157,182Total (Not to exceed 163.39 F.T.E.). \$4,481,304

SECTION 9.225.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Moberly Correctional Center

Personal Service

From General Revenue Fund.....	\$10,431,159
From Working Capital Revolving Fund.	<u>161,281</u>
Total (Not to exceed 389.52 F.T.E.).....	\$10,592,440

SECTION 9.230.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Algoa Correctional Center at Jefferson City

Personal Service

From General Revenue Fund (Not to exceed 294.01 F.T.E.)..	\$8,113,946
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SECTION 9.235.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Missouri Eastern Correctional Center
at Pacific

Personal Service

From General Revenue Fund.....	\$6,838,593
From Working Capital Revolving Fund.	<u>53,760</u>
Total (Not to exceed 249.88 F.T.E.).....	\$6,892,353

SECTION 9.240.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Chillicothe Correctional Center

Personal Service

From General Revenue Fund (Not to exceed 146.49 F.T.E.)..	\$3,962,955
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SECTION 9.245.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Boonville Correctional Center

Personal Service

From General Revenue Fund (Not to exceed 291.86 F.T.E.)..	\$8,042,710
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SECTION 9.250.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Farmington Correctional Center

Personal Service

From General Revenue Fund (Not to exceed 541.80 F.T.E.)..	\$14,417,537
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SECTION 9.251.— To the Board of Public BuildingsFor the purpose of funding payment of rent by the Department of
Corrections (Division of Adult Institutions) to the Board

For the Farmington Correctional Center

Funds to be used by the Board for Personal Service.....	\$1,216,390
Funds to be used by the Board for Expense and Equipment.	<u>175,547</u>
From General Revenue Fund (Not to exceed 40.76 F.T.E.).	\$1,391,937

SECTION 9.255.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Regimented Discipline Program

Personal Service.....	\$530,315
Expense and Equipment	<u>133,836</u>
From General Revenue Fund (Not to exceed 20.00 F.T.E.).....	\$664,151

SECTION 9.260.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Western Missouri Correctional Center

at Cameron

Personal Service

From General Revenue Fund (Not to exceed 512.54 F.T.E.).....	\$13,945,828
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SECTION 9.265.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Potosi Correctional Center

Personal Service

From General Revenue Fund (Not to exceed 333.78 F.T.E.).....	\$9,035,391
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SECTION 9.270.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Fulton Reception and Diagnostic Center

Personal Service

From General Revenue Fund (Not to exceed 313.16 F.T.E.).....	\$8,294,111
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SECTION 9.271.— To the Board of Public Buildings

For the purpose of funding payment of rent by the Department of

Corrections (Division of Adult Institutions) to the Board

For the Fulton Reception and Diagnostic Center

Funds to be used by the Board for Personal Service.	\$568,545
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Funds to be used by the Board for Expense and Equipment.	<u>48,533</u>
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From General Revenue Fund (Not to exceed 19.90 F.T.E.).....	\$617,078
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SECTION 9.275.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Tipton Correctional Center

Personal Service

From General Revenue Fund (Not to exceed 381.64 F.T.E.).....	\$10,083,518
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SECTION 9.290.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Western Reception and Diagnostic

Center at St. Joseph

Personal Service

From General Revenue Fund (Not to exceed 593.00 F.T.E.).....	\$14,984,441
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SECTION 9.295.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Maryville Treatment Center

Personal Service

From General Revenue Fund (Not to exceed 237.00 F.T.E.).....	\$6,291,454
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SECTION 9.300.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Crossroads Correctional Center at Cameron

Personal Service

From General Revenue Fund (Not to exceed 411.00 F.T.E.).. . . . \$10,326,412

SECTION 9.305.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Northeast Correctional Center at Bowling Green

Personal Service

From General Revenue Fund (Not to exceed 552.00 F.T.E.).. . . . \$14,133,375

SECTION 9.310.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Eastern Reception and Diagnostic

Center at Bonne Terre

Personal Service

From General Revenue Fund (Not to exceed 2.00 F.T.E.). \$77,352

SECTION 9.325.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the South Central Correctional Center at Licking

Personal Service

From General Revenue Fund (Not to exceed 435.00 F.T.E.).. . . . \$10,912,802

SECTION 9.400.— To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding the Central Office

Personal Service. \$2,095,970

Expense and Equipment.. . . . 90,443

From General Revenue Fund (Not to exceed 51.15 F.T.E.). \$2,186,413

SECTION 9.406.— To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding contractual services for offender physical
and mental health care

Personal Service. \$3,959,663

Expense and Equipment.. . . . 75,890,474

From General Revenue Fund.. . . . 79,850,137

From Federal Funds. 1E

Total (Not to exceed 94.00 F.T.E.).. . . . \$79,850,138

SECTION 9.408.— To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding medical equipment

Expense and Equipment

From General Revenue Fund (0 F.T.E.). \$244,000

SECTION 9.410.— To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding the provision of inmate jobs department-
wide, including, but not limited to, inmate employment, both

institutional and industrial, drug and alcohol treatment, and education, both academic and vocational	
Personal Service.....	\$12,083,098
Expense and Equipment ..	<u>10,948,641</u>
From General Revenue Fund.	23,031,739

Personal Service.....	1,010,353
Expense and Equipment.	<u>718,043</u>
From Working Capital Revolving Fund.	1,728,396

Expense and Equipment	
From Correctional Substance Abuse Earnings Fund.	<u>264,600</u>
Total (Not to exceed 422.50 F.T.E.).	\$25,024,735

SECTION 9.415.— To the Department of Corrections
For the Division of Offender Rehabilitative Services
For the purpose of funding Missouri Correctional Enterprises

Personal Service.....	\$7,447,058
Expense and Equipment ..	<u>26,344,542</u>
From Working Capital Revolving Fund (Not to exceed 252.00 F.T.E.).	\$33,791,600

SECTION 9.416.— To the Department of Corrections
For the Division of Offender Rehabilitative Services
For the purpose of funding the Private Sector/Prison Industry
Enhancement Program

Expense and Equipment	
From Working Capital Revolving Fund (0 F.T.E.).	\$962,762

SECTION 9.500.— To the Department of Corrections
For the purpose of funding the Board of Probation and Parole

Personal Service.....	\$56,659,780
Expense and Equipment.	<u>5,986,485</u>
From General Revenue Fund (Not to exceed 1,848.08 F.T.E.).	\$62,646,265

SECTION 9.505.— To the Department of Corrections
For the Board of Probation and Parole
For the purpose of funding the St. Louis Community Release Center

Personal Service	
From General Revenue Fund (Not to exceed 133.71 F.T.E.).	\$3,654,518

SECTION 9.510.— To the Department of Corrections
For the Board of Probation and Parole
For the purpose of funding the Kansas City Community Release Center

Personal Service	
From General Revenue Fund (Not to exceed 81.69 F.T.E.).	\$2,226,678

SECTION 9.515.— To the Department of Corrections
For the Board of Probation and Parole
For the purpose of funding Local Sentencing Initiatives. Prior to
placement of an offender in any sentencing alternative the court
will order an assessment by the Division of Probation and Parole
to include an evaluation of substance abuse history, risk

assessment, and criminal history.	
Expense and Equipment	
From General Revenue Fund.....	\$3,328,500
For the purpose of funding the Community Corrections Coordination Unit	
Personal Service.	345,475
Expense and Equipment.....	3,244,331
From General Revenue Fund.....	3,589,806
Personal Service.	157,734
Expense and Equipment.....	3,052,708
From Inmate Revolving Fund.	3,210,442
Total (Not to exceed 17.40 F.T.E.).....	\$10,128,748

BILL TOTALS

General Revenue Fund.	\$512,349,786
Federal Funds.	10,597,219
Other Funds.....	42,827,457
Total.	\$565,774,462

Approved June 26, 2002

HB 1110 [CCS SCS HCS HB 1110]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF MENTAL HEALTH, BOARD OF PUBLIC BUILDINGS, DEPARTMENT OF HEALTH AND SENIOR SERVICES, MISSOURI HEALTH FACILITIES REVIEW COMMITTEE, AND COMMISSION FOR THE SENIOR RX PROGRAM.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Mental Health, the Board of Public Buildings, the Department of Health and Senior Services, and the several divisions and programs thereof, the Missouri Health Facilities Review Committee and the Commission for the Senior Rx Program to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2002 and ending June 30, 2003.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2002 and ending June 30, 2003, as follows:

SECTION 10.005.— To the Department of Mental Health

For the Office of the Director

Personal Service.....	\$1,027,513
Expense and Equipment.....	<u>156,601</u>
From General Revenue Fund.....	1,184,114

Personal Service.....	39,620
Expense and Equipment.....	<u>40,772</u>
From Federal Funds.....	<u>80,392</u>
Total (Not to exceed 20.26 F.T.E.).....	\$1,264,506

SECTION 10.007.— To the Department of Mental Health

For the Office of the Director

For funding program operations and support

Personal Service.....	\$5,115,676
Expense and Equipment	<u>1,782,790</u>
From General Revenue Fund.....	6,898,466

Personal Service.....	367,137
Expense and Equipment.....	<u>694,416</u>
From Federal Funds.....	<u>1,061,553</u>
Total (Not to exceed 143.50 F.T.E.).....	\$7,960,019

SECTION 10.010.— To the Department of Mental Health

For the Office of the Director

For the purpose of funding the Office of Information Systems

Personal Service.....	\$3,185,287
Expense and Equipment.....	<u>3,257,554</u>
From General Revenue Fund.....	6,442,841

Personal Service.....	40,640
Expense and Equipment.....	<u>1,756,691</u>
From Federal Funds.....	1,797,331

Expense and Equipment	
From Mental Health Interagency Payments Fund.....	<u>2,800,000</u>
Total (Not to exceed 79.34 F.T.E.).....	\$11,040,172

SECTION 10.015.— To the Department of Mental Health

For the Office of the Director

For the purpose of funding insurance, private pay, licensure fee,
and/or Medicaid refunds by state facilities operated by the
Department of Mental Health

From General Revenue Fund.....	\$50,000
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For the payment of refunds set off against debts as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund.....	<u>70,000E</u>
Total.....	\$120,000

SECTION 10.017.— There is transferred out of the State Treasury,
chargeable to the Escheats Fund, Fifty Thousand Dollars to the
Mental Health Trust Fund
From Escheats Fund. \$50,000E

SECTION 10.020.— To the Department of Mental Health
For the Office of the Director
For the purpose of funding receipt and disbursement of donations and
gifts which may become available to the Department of Mental
Health during the year (excluding federal grants and funds)
Personal Service. \$736,165
Expense and Equipment 1,283,486
From Mental Health Trust Fund (Not to exceed 6.00 F.T.E.). \$2,019,651

SECTION 10.025.— To the Department of Mental Health
For the Office of the Director
For the purpose of funding operational maintenance and repairs for
state-owned facilities
Expense and Equipment
From Facilities Maintenance Reserve Fund (0 F.T.E.). \$1,197,230

SECTION 10.030.— To the Department of Mental Health
For the Office of the Director
For the purpose of funding federal grants which become available
between sessions of the General Assembly
Personal Service. \$100,000
Expense and Equipment 1,800,000
From Federal Funds (Not to exceed 2.00 F.T.E.). \$1,900,000

SECTION 10.045.— To the Department of Mental Health
For the Office of the Director
For the purpose of funding work therapy for client workers at state agencies
Personal Service. \$80,519
Expense and Equipment. 600
From Mental Health Interagency Payments Fund (Not to exceed 4.00 F.T.E.). . . . \$81,119

SECTION 10.050.— To the Department of Mental Health
For Medicaid payments related to intergovernmental payments
From Mental Health Intergovernmental Transfer Fund. \$12,000,000
From Federal Funds 18,000,000
Total (0 F.T.E.). \$30,000,000

SECTION 10.060.— There is transferred out of the State Treasury,
chargeable to the General Revenue Reimbursements Fund, Twenty-
two Million, Five Hundred Eleven Thousand, Eight Hundred Dollars
to the General Revenue Fund
From General Revenue Reimbursements Fund. \$22,511,800

SECTION 10.105.— To the Department of Mental Health
For the Division of Alcohol and Drug Abuse
For the purpose of funding the administration of statewide
comprehensive alcohol and drug abuse prevention and treatment
programs

Personal Service.....	\$1,303,655
Expense and Equipment.....	<u>55,672</u>
From General Revenue Fund.....	1,359,327

Personal Service.....	835,112
Expense and Equipment.....	<u>821,957</u>
From Federal Funds.....	1,657,069

Personal Service.....	204,373
Expense and Equipment.....	<u>51,204</u>
From Health Initiatives Fund.....	255,577

Personal Service.....	88,521
Expense and Equipment.....	<u>52,372</u>
From Mental Health Earnings Fund.....	140,893

For statewide needs assessments.....	400,000
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For an interstate study to develop a standardized approach for measuring the performance and outcomes of substance abuse treatment programs.	
Expense and Equipment.....	<u>499,843</u>
From Federal Funds.....	<u>899,843</u>
Total (Not to exceed 62.62 F.T.E.).....	\$4,312,709

SECTION 10.110.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding prevention and education services.....	\$435,540
Personal Service.....	<u>7,364</u>
From General Revenue Fund.....	442,904

For prevention and education services.....	7,218,264
Personal Service.....	228,162
Expense and Equipment.....	<u>725,631</u>
From Federal Funds.....	8,172,057

For prevention and education services

From Healthy Families Trust Fund-Tobacco Prevention Account.....	300,000
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For tobacco retailer education

Provided that no person under the age of eighteen shall be used as
either an employee or a volunteer for the purposes of
enforcement of tobacco laws

Personal Service.....	236,110
Expense and Equipment.....	<u>153,622</u>
From Federal Funds.....	389,732

For the purpose of funding Kids Beat Program

Expense and Equipment.....	
From Federal Funds.....	119,000

For a state incentive program and a community high-risk youth program

Personal Service.....	178,588
Expense and Equipment.....	<u>3,084,029</u>
From Federal Funds.....	3,262,617

For Community 2000 Team programs
 From General Revenue Fund..... 210,034
 From Federal Funds .. 2,317,651

For school-based alcohol and drug abuse prevention programs
 From Federal Funds. 383,237
 Total (Not to exceed 17.20 F.T.E.)..... \$15,597,232

SECTION 10.115.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse
 For the purpose of funding the treatment of alcohol and drug abuse. \$20,769,786
 Personal Service. 1,553,926
 Expense and Equipment..... 2,769,333
 From General Revenue Fund..... 25,093,045

For system enhancement of youth services
 Personal Service. 16,267
 Expense and Equipment..... 731,802
 From Federal Funds .. 748,069

For treatment of alcohol and drug abuse. 29,144,357
 Personal Service. 659,332
 Expense and Equipment..... 575,082
 From Federal Funds .. 30,378,771

For treatment of alcohol and drug abuse
 From Healthy Families Trust Fund-Health Care Account 2,077,681
 From Health Initiatives Fund. 4,558,388
 Total (Not to exceed 69.13 F.T.E.)..... \$62,855,954

SECTION 10.120.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse
 For the purpose of funding treatment of compulsive gambling. \$412,798
 Personal Service. 34,704
 Expense and Equipment..... 5,194
 From Compulsive Gamblers Fund (Not to exceed 1.00 F.T.E.)..... \$452,696

SECTION 10.125.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse
 For the purpose of funding the Substance Abuse Traffic Offender Program
 From Federal Funds. \$407,458
 From Health Initiatives Fund 1,365,680
 From Mental Health Earnings Fund 1,732,097E
 Total (0 F.T.E.). \$3,505,235

SECTION 10.205.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services
 For the purpose of funding division administration
 Personal Service. \$1,178,299
 Expense and Equipment..... 194,885
 From General Revenue Fund..... 1,373,184

Personal Service.....	415,320
Expense and Equipment.....	<u>145,401</u>
From Federal Funds.....	560,721

For the minority health and aging program

Expense and Equipment	
From General Revenue Fund.....	10,500
From Federal Funds.....	<u>7,000</u>

For suicide prevention initiatives

Expense and Equipment	
From Federal Funds.....	<u>150,000</u>
Total (Not to exceed 39.33 F.T.E.).....	\$2,101,405

SECTION 10.210.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding adult community programs provided that up to ten percent of this appropriation may be used for services for youth.....	\$67,472,271
Personal Service.....	1,564,442
Expense and Equipment.....	<u>3,743,962</u>
From General Revenue Fund.....	72,780,675

For adult community programs .	16,665,238
Personal Service.....	190,069
Expense and Equipment.....	<u>2,151,597</u>
From Federal Funds.....	19,006,904

For adult community programs

From payments by the Department of Social Services for supported community living for Comprehensive Psychiatric Services clients in lieu of Supplemental Nursing Care payments	
From Mental Health Interagency Payments Fund .	250,000

For adult community programs

From Healthy Families Trust Fund-Health Care Account.....	750,000
From Health Initiatives Fund.....	<u>20,624</u>
Total (Not to exceed 51.46 F.T.E.).....	\$92,808,203

SECTION 10.215.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding nursing home reform requirements of the Omnibus Budget Reconciliation Act of 1987, including specialized services

From General Revenue Fund.....	\$70,866
From Federal Funds.....	<u>212,599</u>
Total (0 F.T.E.).....	\$283,465

SECTION 10.220.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of reimbursing attorneys, physicians, and counties for fees in involuntary civil commitment procedures.....	\$950,000E
For distribution through the Office of Administration to counties pursuant to Section 56.700, RSMo.	<u>150,000</u>
From General Revenue Fund (0 F.T.E.).....	\$1,100,000

SECTION 10.225.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding programs for the homeless mentally ill

From General Revenue Fund..... \$851,392

For programs for the homeless mentally ill 3,842,992

Expense and Equipment..... 118,400From Federal Funds. 3,961,392Total (0 F.T.E.). \$4,812,784**SECTION 10.230.**— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding forensic support services

Personal Service. \$627,119

Expense and Equipment 122,638From General Revenue Fund (Not to exceed 17.39 F.T.E.). \$749,757**SECTION 10.235.**— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding youth community programs, provided that up to

ten percent of this appropriation may be used for services for adults. \$19,652,070

Personal Service. 626,095

Expense and Equipment..... 1,975,358From General Revenue Fund..... 22,253,523

For youth community programs 1,196,148

Personal Service. 164,405

Expense and Equipment..... 1,113,607From Federal Funds 2,474,160

For youth community programs

From Health Initiatives Fund. 98,888Total (Not to exceed 21.65 F.T.E.)..... \$24,826,571**SECTION 10.240.**— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding services for children who are clients of

the Divisions of Youth Services and Family Services

Personal Service. \$599,800

Expense and Equipment 100,200

From Mental Health Interagency Payments Fund (Not to exceed 18.00 F.T.E.). . . \$700,000

SECTION 10.310.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding fuel and utility expenses at state

facilities operated by the Division of Comprehensive Psychiatric

Services, provided that up to three percent of this

appropriation may be used for facilities operated by the

Division of Mental Retardation and Developmental Disabilities

Expense and Equipment

From General Revenue Fund (0 F.T.E.). \$5,019,420

SECTION 10.315.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purchase and administration of new medication therapies

Expense and Equipment

From General Revenue Fund. \$9,080,488

From Federal Funds. 916,243Total (0 F.T.E.). \$9,996,731**SECTION 10.325.**— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding costs for forensic clients resulting from

loss of benefits under provisions of the Social Security

Domestic Employment Reform Act of 1994

Expense and Equipment

From General Revenue Fund (0 F.T.E.). \$500,000

SECTION 10.335.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Fulton State Hospital

Personal Service. \$35,542,040

Personal Service and/or Expense and Equipment 1,870,634

Expense and Equipment. 5,785,650From General Revenue Fund. 43,198,324

For the provision of support services to other agencies

Expense and Equipment

From Mental Health Interagency Payments Fund. 425,000Total (Not to exceed 1,355.31 F.T.E.). \$43,623,324**SECTION 10.340.**— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Northwest Missouri Psychiatric

Rehabilitation Center

Personal Service. \$9,948,751

Personal Service and/or Expense and Equipment 523,618

Expense and Equipment. 1,737,181From General Revenue Fund. 12,209,550

Personal Service. 415,260

Personal Service and/or Expense and Equipment. 21,856From Federal Funds 437,116

For psychiatric services

Personal Service. 380,798

Personal Service and/or Expense and Equipment. 20,042From Mental Health Trust Fund. 400,840

For direct and/or contract provision of children's services

Personal Service. 1,918,612

Personal Service and/or Expense and Equipment 100,980

Expense and Equipment. 306,492From General Revenue Fund. 2,326,084Total (Not to exceed 457.31 F.T.E.). \$15,373,590

SECTION 10.345.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding St. Louis Psychiatric Rehabilitation Center

Personal Service.	\$16,375,050
Personal Service and/or Expense and Equipment	861,845
Expense and Equipment.	<u>2,185,880</u>
From General Revenue Fund.	19,422,775

Personal Service.	168,098
Personal Service and/or Expense and Equipment.	<u>8,847</u>
From Federal Funds.	<u>176,945</u>
Total (Not to exceed 614.88 F.T.E.).	\$19,599,720

SECTION 10.350.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Southwest Missouri Psychiatric

Rehabilitation Center

Personal Service.	\$2,749,542
Personal Service and/or Expense and Equipment	144,713
Expense and Equipment.	<u>629,921</u>
From General Revenue Fund (Not to exceed 109.17 F.T.E.).	\$3,524,176

SECTION 10.355.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Cottonwood Residential Treatment Center

Personal Service.	\$1,814,951
Personal Service and/or Expense and Equipment	95,524
Expense and Equipment.	<u>326,468</u>
From General Revenue Fund (Not to exceed 75.75 F.T.E.).	\$2,236,943

SECTION 10.360.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Hawthorn Children's Psychiatric Hospital

Personal Service.	\$5,434,188
Personal Service and/or Expense and Equipment	286,010
Expense and Equipment.	<u>849,937</u>
From General Revenue Fund.	6,570,135

Personal Service.	1,198,380
Personal Service and/or Expense and Equipment	63,073
Expense and Equipment.	<u>78,684</u>
From Federal Funds	<u>1,340,137</u>
Total (Not to exceed 244.38 F.T.E.).	\$7,910,272

SECTION 10.365.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Metropolitan St. Louis Psychiatric Center

Personal Service.	\$10,281,536
Personal Service and/or Expense and Equipment	541,133
Expense and Equipment.	<u>3,307,657</u>
From General Revenue Fund.	14,130,326

Personal Service.....	151,914
Personal Service and/or Expense and Equipment.....	<u>7,995</u>
From Federal Funds.....	159,909
Total (Not to exceed 380.78 F.T.E.).....	<u>\$14,290,235</u>

SECTION 10.370.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Mid-Missouri Mental Health Center

Personal Service.....	\$5,874,652
Personal Service and/or Expense and Equipment.....	309,192
Expense and Equipment.....	<u>1,192,929</u>
From General Revenue Fund.....	<u>7,376,773</u>

Personal Service.....	266,775
Personal Service and/or Expense and Equipment.....	14,041
Expense and Equipment.....	<u>760</u>
From Federal Funds.....	<u>281,576</u>

For services for children and youth

Personal Service.....	1,884,187
Personal Service and/or Expense and Equipment.....	99,168
Expense and Equipment.....	<u>368,758</u>
From General Revenue Fund.....	<u>2,352,113</u>
Total (Not to exceed 254.50 F.T.E.).....	<u>\$10,010,462</u>

SECTION 10.375.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Southeast Missouri Mental Health Center

Personal Service.....	\$14,193,623
Personal Service and/or Expense and Equipment.....	747,033
Expense and Equipment.....	<u>1,999,929</u>
From General Revenue Fund (Not to exceed 543.05 F.T.E.).....	<u>\$16,940,585</u>

SECTION 10.376.— To the Board of Public Buildings

For the Department of Mental Health

For operation and maintenance of the Southeast Missouri Mental Health Center

Expense and Equipment.....	
From General Revenue Fund (0 F.T.E.).....	<u>\$129,322</u>

SECTION 10.380.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Western Missouri Mental Health Center for

lease/purchase payments and related expenses, operation of the current facility, and any other expenses related to replacement of the facility

Personal Service.....	\$17,901,303
Personal Service and/or Expense and Equipment.....	942,174
Expense and Equipment.....	<u>2,579,285</u>
From General Revenue Fund.....	<u>21,422,762</u>

For the Western Missouri Mental Health Center and/or contracting for
children's services in the Northwest Region

Personal Service.	822,196
Personal Service and/or Expense and Equipment	43,274
Expense and Equipment.	<u>109,660</u>
From General Revenue Fund.	975,130

Personal Service.	300,082
Personal Service and/or Expense and Equipment	15,794
Expense and Equipment.	<u>29,994</u>
From Federal Funds.	<u>345,870</u>
Total (Not to exceed 681.73 F.T.E.).	\$22,743,762

SECTION 10.385.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding the Missouri Sexual Offender Treatment Center

Personal Service.	\$2,955,495
Personal Service and/or Expense and Equipment	155,552
Expense and Equipment.	<u>992,015</u>
From General Revenue Fund (Not to exceed 112.00 F.T.E.).	\$4,103,062

SECTION 10.405.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding division administration

Personal Service.	\$1,023,278
Expense and Equipment.	<u>131,787</u>
From General Revenue Fund.	1,155,065

Personal Service.	50,922
Expense and Equipment.	<u>7,195</u>
From Federal Funds.	<u>58,117</u>
Total (Not to exceed 26.07 F.T.E.).	\$1,213,182

SECTION 10.415.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding community programs

From General Revenue Fund.	\$67,597,477
From Federal Funds	9,200,000
From General Revenue Reimbursements Fund	4,544,329

For consumer and family directed supports/in-home services/choices
for families

From General Revenue Fund.	20,875,564
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For the purpose of funding programs and in-home family directed
services for persons with autism and their families

From General Revenue Fund.	3,669,169
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For services for children in the custody of the Division of Family Services

From Mental Health Interagency Payments Fund	1,049,857
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For SB 40 Board tax funds to be used as match for Medicaid
initiatives for clients of the Division
From Mental Health Trust Fund. 5,852,732E

For early childhood intervention services
From General Revenue Fund. 1,282,007
From Federal Funds 3,763,919
From Mental Health Interagency Payments Fund. 4,547,312
Total (0 F.T.E.). \$122,382,366

SECTION 10.420.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding family support loans pursuant to Section
633.185, RSMo
From Family Support Loan Fund. \$291,305

For the purpose of funding family support stipends pursuant to
Section 633.180, RSMo
From General Revenue Fund. 550,764
Total (0 F.T.E.). \$842,069

SECTION 10.425.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding community support staff
Personal Service. \$1,093,995
Expense and Equipment. 1,781,083
From General Revenue Fund. 2,875,078

Personal Service. 9,544,667
Expense and Equipment 1,348,446
Purchase of Community Services. 8,179,464
From Federal Funds. 19,072,577
Total (Not to exceed 298.35 F.T.E.). \$21,947,655

SECTION 10.430.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding nursing home reform requirements of the
Omnibus Budget Reconciliation Act of 1987
Personal Service
From General Revenue Fund. \$82,357
From Federal Funds 223,748
Total (Not to exceed 7.46 F.T.E.). \$306,105

SECTION 10.435.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding developmental disabilities services
Personal Service. \$326,019
Expense and Equipment 1,187,593
From Federal Funds (Not to exceed 7.98 F.T.E.). \$1,513,612

SECTION 10.500.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding the Albany Regional Center

Personal Service.	\$1,199,699
Personal Service and/or Expense and Equipment	63,142
Expense and Equipment.	<u>209,604</u>
From General Revenue Fund (Not to exceed 39.07 F.T.E.).	\$1,472,445

SECTION 10.505.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding the Central Missouri Regional Center

Personal Service.	\$1,403,411
Personal Service and/or Expense and Equipment	73,863
Expense and Equipment.	<u>109,446</u>
From General Revenue Fund (Not to exceed 48.88 F.T.E.).	\$1,586,720

SECTION 10.510.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding the Hannibal Regional Center

Personal Service.	\$1,581,140
Personal Service and/or Expense and Equipment	83,218
Expense and Equipment.	<u>306,892</u>
From General Revenue Fund (Not to exceed 51.71 F.T.E.).	\$1,971,250

SECTION 10.515.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding the Joplin Regional Center

Personal Service.	\$1,565,466
Personal Service and/or Expense and Equipment	82,393
Expense and Equipment.	<u>347,763</u>
From General Revenue Fund (Not to exceed 51.56 F.T.E.).	\$1,995,622

SECTION 10.520.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding the Kansas City Regional Center

Personal Service.	\$2,150,645
Personal Service and/or Expense and Equipment	113,192
Expense and Equipment.	<u>331,393</u>
From General Revenue Fund.	2,595,230

Expense and Equipment	
From Federal Funds.	<u>5,595</u>
Total (Not to exceed 69.43 F.T.E.).	\$2,600,825

SECTION 10.525.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding the Kirksville Regional Center

Personal Service.	\$1,127,178
Personal Service and/or Expense and Equipment	59,398
Expense and Equipment.	<u>243,867</u>
From General Revenue Fund (Not to exceed 37.79 F.T.E.).	\$1,430,443

SECTION 10.530.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the Poplar Bluff Regional Center

Personal Service.....	\$1,322,828
Personal Service and/or Expense and Equipment	69,622
Expense and Equipment.....	<u>235,038</u>
From General Revenue Fund (Not to exceed 41.58 F.T.E.).....	\$1,627,488

SECTION 10.535.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the Rolla Regional Center

Personal Service.....	\$1,480,891
Personal Service and/or Expense and Equipment	77,941
Expense and Equipment.....	<u>164,045</u>
From General Revenue Fund (Not to exceed 49.88 F.T.E.).....	\$1,722,877

SECTION 10.540.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the Sikeston Regional Center

Personal Service.....	\$1,282,691
Personal Service and/or Expense and Equipment	67,510
Expense and Equipment.....	<u>227,469</u>
From General Revenue Fund.....	1,577,670

Expense and Equipment	
From Federal Funds.....	<u>5,595</u>
Total (Not to exceed 42.54 F.T.E.).....	\$1,583,265

SECTION 10.545.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the Springfield Regional Center

Personal Service.....	\$1,697,157
Personal Service and/or Expense and Equipment	89,324
Expense and Equipment.....	<u>365,121</u>
From General Revenue Fund (Not to exceed 57.23 F.T.E.).....	\$2,151,602

SECTION 10.550.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the St. Louis Regional Center

Personal Service.....	\$3,626,150
Personal Service and/or Expense and Equipment	231,456
Expense and Equipment.....	<u>322,521</u>
From General Revenue Fund.....	4,180,127

Expense and Equipment	
From Federal Funds.....	<u>11,190</u>
Total (Not to exceed 124.77 F.T.E.).....	\$4,191,317

SECTION 10.560.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding fuel and utility expenses at state
 facilities operated by the Division of Mental Retardation-
 Developmental Disabilities, provided that up to three percent of

this appropriation may be used for facilities operated by the
 Division of Comprehensive Psychiatric Services
 Expense and Equipment
 From General Revenue Fund (0 F.T.E.). \$3,044,667

SECTION 10.570.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding Bellefontaine Habilitation Center

Personal Service. \$20,073,944
 Personal Service, Expense and Equipment and/or Purchase
 of Community Services 1,056,523
 Expense and Equipment. 1,603,102
 From General Revenue Fund. 22,733,569

Personal Service. 1,032,417
 Personal Service, Expense and Equipment and/or Purchase
 of Community Services 54,338
 Expense and Equipment. 526,906
 From Federal Funds. 1,613,661
 Total (Not to exceed 960.93 F.T.E.). \$24,347,230

SECTION 10.575.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding Higginsville Habilitation Center

Personal Service. \$8,229,610
 Personal Service, Expense and Equipment and/or Purchase
 of Community Services 433,137
 Expense and Equipment. 1,091,022
 From General Revenue Fund. 9,753,769

Personal Service. 228,904
 Personal Service, Expense and Equipment and/or Purchase
 of Community Services. 12,047
 From Federal Funds 240,951

For Northwest Community Services

Personal Service. 2,045,451
 Personal Service, Expense and Equipment and/or Purchase
 of Community Services. 33,266
 From General Revenue Fund. 2,078,717

Personal Service. 561,393
 Personal Service, Expense and Equipment and/or Purchase
 of Community Services. 103,935
 From Federal Funds. 665,328
 Total (Not to exceed 512.04 F.T.E.). \$12,738,765

SECTION 10.580.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding Marshall Habilitation Center

Personal Service. \$19,273,514

Personal Service, Expense and Equipment and/or Purchase of Community Services	1,014,395
Expense and Equipment.	<u>1,419,358</u>
From General Revenue Fund.	21,707,267

Personal Service.	1,576,222
Personal Service, Expense and Equipment and/or Purchase of Community Services	82,959
Expense and Equipment.	<u>310,460</u>
From Federal Funds.	<u>1,969,641</u>
Total (Not to exceed 969.40 F.T.E.).	\$23,676,908

SECTION 10.585.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding Nevada Habilitation Center

Personal Service.	\$7,986,428
Personal Service, Expense and Equipment and/or Purchase of Community Services	420,338
Expense and Equipment.	<u>1,487,492</u>
From General Revenue Fund (Not to exceed 346.25 F.T.E.).	\$9,894,258

SECTION 10.590.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding St. Louis Developmental Disabilities

Treatment Center

Personal Service.	\$14,871,405
Personal Service, Expense and Equipment and/or Purchase of Community Services	782,705
Expense and Equipment.	<u>1,755,000</u>
From General Revenue Fund.	17,409,110

Personal Service.	713,457
Personal Service, Expense and Equipment and/or Purchase of Community Services.	<u>37,550</u>
From Federal Funds.	<u>751,007</u>
Total (Not to exceed 730.71 F.T.E.).	\$18,160,117

SECTION 10.591.— To the Board of Public Buildings

For the operation and maintenance of St. Louis Developmental

Disabilities Treatment Center improvements

Expense and Equipment

From General Revenue Fund (0 F.T.E.).	\$84,861
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SECTION 10.595.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding Southeast Missouri Residential Services

Personal Service.	\$5,001,793
Personal Service, Expense and Equipment and/or Purchase of Community Services	263,252
Expense and Equipment.	<u>694,085</u>
From General Revenue Fund.	5,959,130

Personal Service.	84,349
Personal Service, Expense and Equipment and/or Purchase of Community Services	4,439
Expense and Equipment.	<u>20,000</u>
From Federal Funds.	<u>108,788</u>
Total (Not to exceed 236.24 F.T.E.).	\$6,067,918

SECTION 10.600.— To the Department of Health and Senior Services

For the Office of the Director

For the purpose of funding program operations and support

Personal Service.	\$1,977,815
Expense and Equipment.	<u>96,007</u>
From General Revenue Fund.	<u>2,073,822</u>

Personal Service.	1,734,917
Expense and Equipment.	<u>585,110</u>
From Federal Funds	<u>2,320,027</u>

For the Office of Minority Health

Personal Service.	246,042
Expense and Equipment.	<u>296,344</u>
From General Revenue Fund.	<u>542,386</u>

Expense and Equipment and the Purchase of Services From Federal Funds	106,904
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For Minority Health and Aging

Expense and Equipment and the Purchase of Services From General Revenue Fund.	<u>194,950</u>
Total (Not to exceed 97.36 F.T.E.).	\$5,238,089

SECTION 10.602.— To the Department of Health and Senior Services

For Homeland Security

Personal Service.	\$2,172,547
Expense and Equipment	<u>16,586,099</u>
From Federal Funds (Not to exceed 48 F.T.E.).	\$18,758,646

SECTION 10.605.— To the Department of Health and Senior Services

For the purpose of funding the Center for Health Information and Evaluation

For the purpose of funding program operations and support

Personal Service.	\$2,395,346
Expense and Equipment.	<u>744,573</u>
From General Revenue Fund.	<u>3,139,919</u>

Personal Service.	3,821,111
Expense and Equipment.	<u>5,886,586</u>
From Federal Funds	<u>9,707,697</u>

Expense and Equipment From Missouri Public Health Services Fund.	50,000
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Personal Service.....	112,942
Expense and Equipment.....	<u>18,000</u>
From Workers' Compensation Fund.....	130,942

Personal Service.....	225,012
Expense and Equipment.....	<u>365,000</u>
From Document Services Fund.....	590,012

Personal Service.....	158,466
Expense and Equipment.....	<u>481,059</u>
From Department of Health Donated Fund.....	<u>639,525</u>
Total (Not to exceed 174.24 F.T.E.).....	\$14,258,095

SECTION 10.610.— To the Department of Health and Senior Services

For the Center for Health Information and Evaluation

For the purpose of paying the fees of local registrars of vital

records in accordance with Section 193.305, RSMo

From General Revenue Fund (0 F.T.E.).....	\$155,000
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SECTION 10.615.— To the Department of Health and Senior Services

For the Center for Local Public Health

For the purpose of funding program operations and support

Personal Service.....	\$395,595
Expense and Equipment.....	<u>39,046</u>
From General Revenue Fund.....	434,641

Personal Service.....	89,556
Expense and Equipment.....	<u>10,692</u>
From Federal Funds.....	100,248

Personal Service.....	89,914
Expense and Equipment.....	<u>162,097</u>
From Department of Health Donated Fund.....	<u>252,011</u>
Total (Not to exceed 14.00 F.T.E.).....	\$786,900

SECTION 10.620.— To the Department of Health and Senior Services

For the Center for Local Public Health Services

For the purpose of funding core public health functions and related expenses

From General Revenue Fund (0 F.T.E.).....	\$9,596,367
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SECTION 10.625.— To the Department of Health and Senior Services

For the Center for Health Improvement

For the purpose of funding program operations and support

Personal Service.....	\$474,999
Expense and Equipment.....	<u>191,006</u>
From General Revenue Fund.....	666,005

Personal Service.....	726,520
Expense and Equipment.....	<u>597,948</u>
From Federal Funds.....	1,324,468

Personal Service	
From Health Access Incentive Fund.....	82,264
Personal Service.....	62,756
Expense and Equipment.....	<u>22,500</u>
From Professional and Practical Nursing Student Loan and Nurse Loan	
Repayment Fund.....	85,256
Total (Not to exceed 31.85 F.T.E.).....	<u>\$2,157,993</u>

SECTION 10.635.— To the Department of Health and Senior Services

For the Center for Health Improvement

For the Primary Care Resource Initiative Program (PRIMO)

From Health Access Incentive Fund.....	\$4,054,000
From Department of Health Donated Fund.....	<u>850,000</u>
Total (0 F.T.E.).....	<u>\$4,904,000</u>

SECTION 10.640.— To the Department of Health and Senior Services

For the Center for Health Improvement

For the Financial Aid to Medical Students and Medical School Loan

Repayment Programs in accordance with Chapter 191, RSMo

From General Revenue Fund.....	\$13,531
From Federal Funds	214,446
From Medical School Loan Repayment Fund.....	<u>50,000</u>
Total (0 F.T.E.).....	<u>\$277,977</u>

SECTION 10.645.— To the Department of Health and Senior Services

For the Center for Health Improvement

For the purpose of funding the Nurse Loan and Nurse Loan Repayment

Programs in accordance with Chapter 335, RSMo

From Federal Funds.....	\$60,000
From Professional and Practical Nursing Student Loan and Nurse Loan	
Repayment Fund.....	<u>450,000</u>
Total (0 F.T.E.).....	<u>\$510,000</u>

SECTION 10.655.— To the Department of Health and Senior Services

For the Division of Administration

For the purpose of funding program operations and support

Personal Service.....	\$841,248
Expense and Equipment.....	<u>258,467</u>
From General Revenue Fund.....	<u>1,099,715</u>

Personal Service.....	1,672,223
Expense and Equipment.....	<u>2,806,927</u>
From Federal Funds	<u>4,479,150</u>

Personal Service.....	115,880
Expense and Equipment.....	<u>419,280</u>
From Missouri Public Health Services Fund.....	<u>535,160</u>

Expense and Equipment	
From Health Access Incentive Fund.....	7,000
From Healthy Families Trust Fund-Health Care Account	<u>89,652</u>

From Department of Health Document Services Fund	225,000
From Workers' Compensation Fund.	8,000
From Department of Health Donated Fund	1,496,604

For the purpose of funding federal grants which may become available between sessions of the General Assembly	
Personal Service.....	300,000
Expense and Equipment ..	<u>3,000,002</u>
From Federal Funds	3,300,002

For the purpose of funding receipt and disbursement of donations, gifts, and grants which may become available to the department during the year, excluding federal grants and funds provided that such funds are consistent with the Department's mission	
Personal Service.....	250,000
Expense and Equipment.....	<u>750,000</u>
From Department of Health Donated Fund.	<u>1,000,000</u>
Total (Not to exceed 77.12 F.T.E.).	\$12,240,283

SECTION 10.660.— To the Department of Health and Senior Services

For the Division of Administration

For the purpose of funding preventive health services under the
provisions of the Preventive Health Services Block Grant

From Federal Funds (0 F.T.E.).	\$1,637,788
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SECTION 10.670.— To the Department of Health and Senior Services

For the Division of Administration

For the purpose of funding the payment of refunds set off against
debts in accordance with Section 143.786, RSMo

From Debt Offset Escrow Fund (0 F.T.E.).	\$50,000E
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SECTION 10.675.— To the Department of Health and Senior Services

For the Office of Director

For the purpose of funding the State Public Health Laboratory

Personal Service.....	\$2,146,653
Expense and Equipment ..	<u>1,528,343</u>
From General Revenue Fund.	3,674,996

Personal Service.....	1,068,677
Expense and Equipment ..	<u>2,496,174</u>
From Federal Funds	3,564,851

Personal Service.....	725,099
Expense and Equipment ..	<u>1,479,300</u>
From Missouri Public Health Services Fund.	2,204,399

Personal Service.....	115,212
Expense and Equipment ..	<u>238,491</u>
From Healthy Families Trust Fund - Health Care Account.	<u>353,703</u>
Total (Not to exceed 118.97 F.T.E.).	\$9,797,949

SECTION 10.680.— There is transferred out of the State Treasury,
chargeable to the Health Initiatives Fund, Four Million, Two
Hundred Sixty-eight Thousand, Three Dollars to the Health Access
Incentive Fund

From Health Initiatives Fund. \$4,268,003

SECTION 10.685.— To the Department of Health and Senior Services
For the Missouri Health Facilities Review Committee

For the purpose of funding program operations and support

Personal Service. \$176,000

Expense and Equipment. 33,000

From General Revenue Fund (Not to exceed 6.00 F.T.E.). \$209,000

SECTION 10.690.— To the Department of Health and Senior Services
For the Division of Environmental Health and Communicable Disease

Prevention

For the purpose of funding program operations and support

Personal Service. \$3,441,647

Expense and Equipment. 3,740,410

From General Revenue Fund. 7,182,057

Personal Service. 4,016,373

Expense and Equipment. 14,202,229

From Federal Funds 18,218,602

Personal Service. 169,422

Expense and Equipment. 70,532

From Hazardous Waste Remedial Fund 239,954

Personal Service. 80,358

Expense and Equipment. 235,050

From Missouri Public Health Services Fund. 315,408

For the Lead Abatement Loan Program

From Missouri Lead Abatement Loan Fund 276,000

For the Childhood Lead Screening Program

Personal Service. 52,362

Expense and Equipment. 782,631

From the Healthy Families Trust Fund - Health Care Account 834,993

For the purpose of funding medications

From General Revenue Fund. 2,134,000

From Federal Funds. 9,213,055

Total (Not to exceed 209.35 F.T.E.). \$38,414,069

SECTION 10.695.— To the Department of Health and Senior Services
For the Division of Maternal, Child and Family Health

For the purpose of funding program operations and support

Personal Service. \$1,691,761

Expense and Equipment. 221,220

From General Revenue Fund. 1,912,981

Personal Service. 1,836,084

Expense and Equipment. 3,427,286

From Federal Funds 5,263,370

Personal Service	
From Health Initiatives Fund	39,818
For service coordination and related expenses to allow the division to contract for these services at the local level when possible	
Personal Service.	746,078
Expense and Equipment.	253,608
From General Revenue Fund.	999,686
Personal Service.	1,055,181
Expense and Equipment.	300,000
From Federal Funds	1,355,181
Total (Not to exceed 171.69 F.T.E.).	\$9,571,036

SECTION 10.697.— To the Department of Health and Senior Services
For the Division of Maternal, Child and Family Health
For sexual assault prevention education and victim services
From Federal Funds (0 F.T.E.). \$789,134

SECTION 10.700.— To the Department of Health and Senior Services
For the Division of Maternal, Child and Family Health
For the purpose of funding maternal and child health services,
including rape medical examinations, Sudden Infant Death
Syndrome (SIDS) payments, and maternal and child health services
from sources other than the Maternal and Child Health Block
Grant
From General Revenue Fund (0 F.T.E.). \$2,063,102

SECTION 10.705.— To the Department of Health and Senior Services
For the Division of Maternal, Child and Family Health
For the purpose of funding maternal and child health services under
the provisions of the Maternal and Child Health Block Grant
From Federal Funds (0 F.T.E.). \$6,585,000

SECTION 10.710.— To the Department of Health and Senior Services
For the Division of Maternal, Child and Family Health
1. For the purpose of funding family planning services, pregnancy
testing and follow-up services, provided that none of these
funds appropriated herein may be expended to directly or
indirectly subsidize abortion services or administrative
expenses. Abortion services include performing, assisting with,
or directly referring for abortions, or encouraging or
counseling patients to have abortions. Family planning services
are preconception services that limit or enhance fertility,
including contraception methods, the management of infertility,
preconception counseling, education, and general reproductive
health care. Follow-up services are services that supplement
initial consultations for family planning services and pregnancy
testing but do not include pregnancy or childbirth care.
Nondirective counseling is defined as providing patients with a
list of health care and social service providers that provide
pregnancy, prenatal, delivery, infant care, foster care,
adoption, alternative to abortion and abortion services and

nondirective, non-marketing information in regard to such providers. Such list may categorize the providers by the service or services they provide. An organization that receives these funds may not directly refer patients who seek abortion services to any organization that provides abortion services, including its own independent affiliate. Nondirective counseling relating to pregnancy may be provided. None of these funds may be paid or granted to an organization or an affiliate of an organization that provides abortion services. An organization that receives these funds may not display or distribute marketing materials about abortion services to patients. An otherwise qualified organization shall not be disqualified from receipt of these funds because of its affiliation with an organization that provides abortion services, provided that the affiliated organization that provides abortion services is independent as determined by the conditions set forth in this section. To ensure that the state does not lend its imprimatur to abortion services, and to ensure that an organization that provides abortion services does not receive a direct or indirect economic or marketing benefit from these funds, an organization that receives these funds and its independent affiliate that provides abortion services may not share any of the following:

- (a) The same or similar name;
- (b) Medical or non-medical facilities, including but not limited to business offices, treatment, consultation, examination, and waiting rooms;
- (c) Expenses;
- (d) Employee wages or salaries; or
- (e) Equipment or supplies, including but not limited to computers, telephone systems, telecommunications equipment and office supplies.

An independent affiliate that provides abortion services must be separately incorporated from any organization that receives these funds. An organization that receives these funds must maintain financial records that demonstrate strict compliance with this section and that demonstrate that its independent affiliate that provides abortion services receives no direct or indirect economic or marketing benefit from these funds. An independent audit shall be conducted at least once every three years to ensure compliance with this section. If the organization is an affiliate of an organization which provides abortion services, the independent audit shall be conducted at least annually. The audit shall be conducted by either an independent auditing firm retained by the department of health or by an independent auditing firm approved by the department and retained by an organization receiving these funds. Any organization receiving federal funds pursuant to Title X of the federal Public Health Services Act may perform services which are required under the federal act, but otherwise prohibited pursuant to this section if:

- 1) Specifically directed by United States Secretary of Health and Human Services to perform such services by written order

directed to the organization; and

2) Such order is final and no longer subject to appeal, and

3) The refusal to perform such required services will result in the withholding of federal funds to said organization.

Federal statutory or regulatory provisions or guidelines of general application shall not constitute such written order as described herein.

2. If any provision of subsection 1 of this section is held invalid, the provision shall be severed from subsection 1 of this section and the remainder of subsection 1 of this section shall be enforced. If the entirety of subsection 1 of this section is held invalid, then this appropriation shall be in accordance with subsection 3 of this section; otherwise subsections 3 and 5 of this section shall have no effect.
3. For the purpose of funding family planning services, pregnancy testing, and follow-up services that are provided directly by the Department of Health or provided directly by government agencies of this state or provided directly by any political subdivision of this state or provided directly by community mental health centers organized pursuant to sections 205.975 to 205.990, RSMo, or provided directly by community action agencies organized pursuant to sections 660.370 to 660.374, RSMo, through contractual agreement with the department, provided that none of the funds appropriated herein may be expended to directly or indirectly subsidize abortion services or administrative expenses. Abortion services include performing, assisting with, or directly referring for abortions, or encouraging or counseling patients to have abortions. Family planning services are preconception services that limit or enhance fertility, including contraception methods, the management of infertility, preconception counseling, education, and general reproductive health care. Follow-up services are services that supplement initial consultations for family planning services and pregnancy testing but do not include pregnancy or childbirth care. Nondirective counseling is defined as providing patients with a list of health care and social service providers that provide pregnancy, prenatal, delivery, infant care, foster care, adoption, alternative to abortion and abortion services and nondirective, non-marketing information in regard to such providers. Such list may categorize the providers by the service or services they provide. An entity that receives funds pursuant to this subsection may not directly refer patients who seek abortion services to any organization that provides abortion services. Nondirective counseling relating to pregnancy may be provided. None of the funds provided pursuant to this subsection may be paid or granted to an entity that provides abortion services. Any entity receiving funds pursuant to this subsection may not display or distribute marketing materials about abortion services to patients. An independent audit shall be conducted at least once every three years to ensure compliance with this section. The audit shall be conducted by either an independent auditing firm retained by the

Department of Health or by an independent auditing firm approved by the department and retained by the entity receiving these funds. Any entity receiving federal funds pursuant to Title X of the federal Public Health Services Act may perform services which are required under the federal act, but otherwise prohibited pursuant to this section if:

- 1) Specifically directed by the United States Secretary of Health and Human Services to perform such services by written order directed to the entity; and
- 2) Such order is final and no longer subject to appeal, and
- 3) The refusal to perform such required services will result in the withholding of federal funds to said entity.

Federal statutory or regulatory provisions or guidelines of general application shall not constitute such written order as described herein.

4. If the entirety of subsection 1 of this section is held invalid and any provision of subsection 3 of this section is held invalid, then this appropriation shall be in accordance with subsection 5; otherwise subsection 5 shall have no effect.
5. For the purpose of funding family planning services, pregnancy testing, and follow-up services that are provided directly by the Department of Health or provided by government agencies of this state or provided directly by any political subdivision of this state through contractual agreement with the department, provided that none of these funds appropriated herein may be expended to directly or indirectly subsidize abortion services or administrative expenses. Abortion services include performing, assisting with, or directly referring for abortions, or encouraging or counseling patients to have abortions. Family planning services are preconception services that limit or enhance fertility, including contraception methods, the management of infertility, preconception counseling, education, and general reproductive health care. Follow-up services are services that supplement initial consultations for family planning services and pregnancy testing but do not include pregnancy or childbirth care. Nondirective counseling is defined as providing patients with a list of health care and social service providers that provide pregnancy, prenatal, delivery, infant care, foster care, adoption, alternative to abortion and abortion services and nondirective, non-marketing information in regard to such providers. Such list may categorize the providers by the service or services they provide. The department and any other government entity receiving funds pursuant to this subsection may not directly refer patients who seek abortion services to any organization that provides abortion services. Nondirective counseling relating to pregnancy may be provided. None of the funds provided pursuant to this subsection may be paid or granted to a government entity that provides abortion services. The department and any other government entity receiving funds pursuant to this subsection may not display or distribute marketing materials about abortion services to patients. An

independent audit shall be conducted at least once every three years to ensure compliance with this section. The audit shall be conducted by either an independent auditing firm retained by the Department of Health or by an independent auditing firm approved by the department and retained by the government entity receiving these funds. Any government entity receiving federal funds pursuant to Title X of the federal Public Health Services Act may perform services which are required under the federal act, but otherwise prohibited pursuant to this section if:

- 1) Specifically directed by the United States Secretary of Health and Human Services to perform such services by written order directed to the government entity; and
 - 2) Such order is final and no longer subject to appeal, and
 - 3) The refusal to perform such required services will result in the withholding of federal funds to said government entity.
- Federal statutory or regulatory provisions or guidelines of general application shall not constitute such written order as described herein.

From General Revenue Fund.	\$3,618,639
From Federal Funds.	1,464,819
Total (0 F.T.E.).	\$5,083,458

SECTION 10.715. — To the Department of Health

For the Division of Maternal, Child and Family Health

For the purpose of funding alternatives to abortion services,

consisting of services or counseling offered to a pregnant woman and continuing for one year thereafter, to assist her in carrying her unborn child to term instead of having an abortion, and to assist her in caring for her dependent child or placing her child for adoption, including, but not limited to the following: prenatal care; medical and mental health care; parenting skills; drug and alcohol testing and treatment; child care; newborn or infant care; housing; utilities; educational services; food, clothing and supplies relating to pregnancy, newborn care and parenting; adoption assistance; job training and placement; establishing and promoting responsible paternity; ultrasound services; case management; domestic abuse protection; and transportation. Actual provision and delivery of such services shall be dependent on client needs and not otherwise prioritized by the department. Such services shall be available only during pregnancy and continuing for one year thereafter, and shall exclude any service of the type described in Section 10.710. An independent audit shall be conducted annually to ensure compliance with this section. None of these funds shall be expended to perform or induce, assist in the performing or inducing of, or refer for, abortions; and none of these funds shall be granted to organizations or affiliates of organizations that perform or induce, assist in the performing or inducing of, or refer for, abortions

From General Revenue Fund.	\$700,000
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SECTION 10.720.— To the Department of Health and Senior Services
For the Division of Maternal, Child and Family Health
For the purpose of funding school-aged children's health services and
related expenses

From Health Initiatives Fund (0 F.T.E.). \$5,366,564

SECTION 10.725.— To the Department of Health and Senior Services
For the Division of Maternal, Child and Family Health
For the purpose of funding children with special health care needs
and related expenses

From General Revenue Fund. \$1,207,261
From Federal Funds 4,056,191
From Crippled Children's Service Fund. 275,000
From Smith Memorial Endowment Fund 35,000
From Department of Health Interagency Payments Fund. 3,720,527
Total (0 F.T.E.). \$9,293,979

SECTION 10.730.— To the Department of Health and Senior Services
For the Division of Maternal, Child and Family Health
For the purpose of funding head injury community rehabilitation and
support services

From General Revenue Fund. \$1,473,235
From Federal Funds. 250,000
Total (0 F.T.E.). \$1,723,235

SECTION 10.735.— To the Department of Health and Senior Services
For the Division of Maternal, Child and Family Health
For the purpose of funding genetic services

From General Revenue Fund. \$1,730,110
From Federal Funds. 260,000
Total (0 F.T.E.). \$1,990,110

SECTION 10.737.— To the Department of Health and Senior Services
For the Division of Maternal, Child and Family Health
For the purpose of funding blindness education, screening, and
treatment services

From Blindness Education, Screening, and Treatment Fund (0 F.T.E.). \$250,000

SECTION 10.740.— To the Department of Health and Senior Services
For the Division of Nutritional Health and Services
For the purpose of funding program operations and support

Personal Service. \$219,758
Expense and Equipment. 163,807
From General Revenue Fund. 383,565

Personal Service. 2,806,736
Expense and Equipment. 7,387,483
From Federal Funds 10,194,219
Total (Not to exceed 87.65 F.T.E.). \$10,577,784

SECTION 10.745.— To the Department of Health and Senior Services

For the Division of Nutritional Health and Services

For the purpose of funding Women, Infants and Children (WIC)

Supplemental Nutrition program distributions and related
expenses

From General Revenue Fund.	\$54,126
From Federal Funds	92,340,000
From Department of Health Donated Fund.	145,714
Total (0 F.T.E.).	<u>\$92,539,840</u>

SECTION 10.750.— To the Department of Health and Senior Services

For the Division of Nutritional Health and Services

For the purpose of funding the Child and Adult Care Food Program

From Federal Funds (0 F.T.E.). \$42,083,939E

SECTION 10.755.— To the Department of Health and Senior Services

For the Division of Nutritional Health and Services

For the purpose of funding the Summer Food Service Program

From Federal Funds (0 F.T.E.). \$8,747,200

SECTION 10.760.— To the Department of Health and Senior Services

For the Division of Health Standards and Licensure

For the purpose of funding program operations and support

Personal Service.	\$2,653,892
Expense and Equipment.	<u>403,817</u>
From General Revenue Fund.	3,057,709

Personal Service.	1,752,392
Expense and Equipment.	<u>429,993</u>
From Federal Funds	2,182,385

Personal Service.	62,258
Expense and Equipment.	<u>13,650</u>
From Health Access Incentive Fund.	75,908

Personal Service.	51,907
Expense and Equipment.	<u>18,200</u>
From Mammography Fund.	70,107

Personal Service.	179,046
Expense and Equipment.	<u>81,840</u>
From Early Childhood Development, Education and Care Fund.	260,886

For the purpose of funding a diet pill education program

From Department of Health Donated Fund 130,000

For the purpose of health and safety inspections and related

services, to allow the division to contract for services at the
local level, when possible

Personal Service.	3,067,633
Expense and Equipment.	<u>136,985</u>
From General Revenue Fund.	3,204,618

Personal Service.	1,713,161
Expense and Equipment.	<u>812,915</u>
From Federal Funds	2,526,076

Personal Service.	57,904
Expense and Equipment.	<u>49,469</u>
From Missouri Public Health Services Fund.	<u>107,373</u>
Total (Not to exceed 257.65 F.T.E.).	\$11,615,062

SECTION 10.765.— To the Department of Health and Senior Services

For the Division of Health Standards and Licensing

For the purpose of funding activities to improve the quality of child care, increase the availability of early childhood development programs, before- and after-school care, and in-home services for families with newborn children, and for general administration of the program in accordance with Section 313.835, RSMo

From Federal Funds.	\$4,964,775
From Early Childhood Development, Education and Care Fund.	<u>728,740</u>
Total (0 F.T.E.).	\$5,693,515

SECTION 10.770.— To the Department of Health and Senior Services

For the Division of Chronic Disease Prevention and Health Promotion

For the purpose of funding program operations and support

Personal Service.	\$667,180
Expense and Equipment.	<u>984,109</u>
From General Revenue Fund.	1,651,289

Personal Service.	2,551,462
Expense and Equipment.	<u>6,823,438</u>
From Federal Funds	9,374,900

Personal Service.	70,670
Expense and Equipment.	<u>300,999</u>
From Organ Donation Fund.	<u>371,669</u>
Total (Not to exceed 88.09 F.T.E.).	\$11,397,858

SECTION 10.780.— To the Department of Health and Senior Services

For the Division of Senior Services

For the purpose of funding Central Administration and Support Services

Personal Service.	\$442,003
Expense and Equipment.	<u>80,995</u>
From General Revenue Fund.	522,998

Personal Service.	539,090
Expense and Equipment.	<u>120,208</u>
From Federal Funds.	<u>659,298</u>
Total (Not to exceed 30.60 F.T.E.).	\$1,182,296

SECTION 10.785.— To the Department of Health and Senior Services

For the Division of Senior Services

For the purpose of funding Home and Community Services personnel

Personal Service.....	\$6,373,886
Expense and Equipment.	<u>839,707</u>
From General Revenue Fund.	7,213,593

Personal Service.....	7,974,787
Expense and Equipment.	<u>931,145</u>
From Federal Funds.	<u>8,905,932</u>
Total (Not to exceed 478.86 F.T.E.).	\$16,119,525

SECTION 10.790.— To the Department of Health and Senior Services

For the Division of Health Standards and Licensure

For the purpose of funding Institutional Services

Personal Service.....	\$3,990,856
Expense and Equipment.	<u>513,205</u>
From General Revenue Fund.	4,504,061

Personal Service.....	6,551,642
Expense and Equipment.	<u>1,854,907</u>
From Federal Funds	8,406,549

Personal Service.....	1,083,555
Expense and Equipment.	<u>2,276,449</u>
From Nursing Facility Quality of Care Fund.	<u>3,360,004</u>
Total (Not to exceed 309.51 F.T.E.).	\$16,270,614

SECTION 10.795.— To the Department of Health and Senior Services

For the Division of Senior Services

For the purpose of funding Home and Community Services programs

From General Revenue Fund.	\$16,044,376
From Federal Funds	2,787,597
From Division of Aging Donations Fund..	<u>50,000</u>
Total (0 F.T.E.).	\$18,881,973

SECTION 10.800.— To the Department of Health and Senior Services

For the Division of Senior Services

For the purpose of funding Home and Community Services grants;

provided, however, that funds appropriated herein for home-delivered meals, distributed according to formula to the area agencies and which may, for whatever reason, not be expended shall be redistributed based upon need and ability to spend.

The Area Agencies on Aging shall comply with all reporting requirements requested by the department and shall conduct public hearings on their spending plans and other operations as shall be required by the department

From General Revenue Fund.	\$8,820,000
From Federal Funds	28,794,840
From Division of Aging Elderly Home Delivered Meals Trust Fund	430,000
From Health Families Trust Fund - Senior Catastrophic Prescription Account..	<u>980,000</u>
Total (0 F.T.E.).	\$39,024,840

SECTION 10.805.— To the Department of Health and Senior Services
For the Division of Senior Services

For the distributions to Area Agencies on Aging pursuant to the
Older Americans Act and related programs

From General Revenue (0 F.T.E.). \$2,153,454

For the purpose of providing state matching funds in furtherance of
the St. Louis Naturally Occurring Retirement Communities (NORCs)
demonstration project authorized under the Older Americans Act
Title IV Account of the Labor, Health and Human Services
Education, and Related Agencies Appropriations Bill of 2003

From General Revenue. 100,000
Total (0 F.T.E.). \$2,253,454

SECTION 10.825.— To the Department of Health and Senior Services
For the Division of Senior Services

For the Commission for the Missouri Senior Rx Program

For the Missouri Senior Rx Program. \$68,100,000

Personal Service. 732,864

Expense and Equipment. 4,876,630

If the enrollment fee collections exceed the originally projected
enrollment revenues, the Commission shall be authorized to spend
from such collections to cover the cost of third party administration

Expense and Equipment. 1,500,000

From Missouri Senior Rx Fund (Not to exceed 20.00 F.T.E.). \$75,209,494

SECTION 10.830.— There is transferred out of the State Treasury,
chargeable to the Healthy Families Trust Fund - Senior
Catastrophic Prescription Account, Sixty-five Million, Eight
Hundred Seventy-nine Thousand, Three Hundred Sixty-seven
(\$65,879,367) Dollars to the Missouri Senior Rx Fund

From Healthy Families Trust Fund - Senior Catastrophic Prescription
Account.

\$65,879,367

BILL TOTALS

General Revenue. \$617,984,091

Federal Funds. 455,806,370

Other Funds. 139,567,541

Total. \$1,213,358,002

Approved June 26, 2002

HB 1111 [CCS SCS HCS HB 1111]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF SOCIAL SERVICES.

AN ACT to appropriate money for the expenses, grants, and distributions of the Department of Social Services and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2002 and ending June 30, 2003.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2002 and ending June 30, 2003 as follows:

SECTION 11.005.— To the Department of Social Services

For the purpose of funding the Office of the Director

Personal Service.....	\$553,439
Expense and Equipment ..	<u>111,525</u>
From General Revenue Fund.....	664,964

Personal Service.....	12,042
Expense and Equipment.....	<u>1,500</u>
From Federal Funds	13,542

Personal Service.....	41,300
Expense and Equipment.....	<u>17,300</u>
From Child Support Collections Fund.....	<u>58,600</u>
Total (Not to exceed 11.58 F.T.E.)	\$737,106

SECTION 11.010.— To the Department of Social Services

For Departmental Administration

For the Office of the Director

For the purpose of funding contractual services with Legal Services

Corporations in Missouri which provide legal services to low-income Missouri citizens. Funds shall be allocated according to the most recent national census data for the population of poor persons living in Missouri and in the same manner as current allocation from the Legal Services Corporation. Funding shall not be allocated if the provisions of Section 504(a)(7) and Section 508(b)(2)(B) of the Omnibus 1996 Appropriations Bill have not been met by the Legal Services Corporation. Contracts for services should provide low-income Missouri citizens equal access to the civil justice system, with high priority on families and children, domestic violence, the elderly, and qualification for benefits under the Social Security Act and the

Work Opportunity Reconciliation Act of 1996. Contractors shall provide to the department a report of services rendered, including the number of low-income citizens served, the types of services provided, the cost per case, and the amount of free and reduced-fee legal services which have been provided; and shall include a full accounting of all expenditures made by or on behalf of Legal Services Corporations in Missouri which shall include expenditures of all federal, state, and other funds. An accounting shall be made for the first six months from July 1, 2002 through December 31, 2002 and a final accounting for the year through June 30, 2003, and these reports shall include a comparison with all expenditures for Fiscal Year 2002. The accountings shall be delivered to the General Assembly, including the House Budget Committee Chair, the House Appropriations Committee — Social Services Chair, the Senate Appropriations Committee Chair, and also to all current House Appropriations Committee — Social Services members, no later than January 31, 2003, and July 31, 2003 respectively

From Intergovernmental Transfer Fund.	\$250,000
From Legal Services for Low-Income People Fund	<u>1,010,830</u>
Total.	\$1,260,830

SECTION 11.015. — There is transferred out of the State Treasury, chargeable to the Tort Victims' Compensation Fund, One Million, Ten Thousand, Eight Hundred Thirty Dollars to the Legal Services for Low-Income People Fund

From Tort Victims' Compensation Fund.	\$1,010,830
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SECTION 11.020. — To the Department of Social Services
For the Office of the Director

For the purpose of receiving and expending donations and federal funds provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to the use of said funds

From Federal and Other Funds.	\$12,430,000
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SECTION 11.025. — To the Department of Social Services
For Administrative Services

For the Division of General Services

For the purpose of funding operating maintenance and repair

From Facilities Maintenance Reserve Fund.	\$30,708
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From Federal Funds	10,138
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For the Division of Youth Services

For the purpose of funding operating maintenance and repair

From Facilities Maintenance Reserve Fund	78,794
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From Federal Funds	<u>138,243</u>
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Total.	\$257,883
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SECTION 11.027.— To the Department of Social Services

For the Office of the Director

For the purpose of funding the Personnel and Labor Relations Section

Personal Service.	\$301,009
Expense and Equipment.	<u>23,926</u>
From General Revenue Fund.	324,935

Personal Service.	26,179
Expense and Equipment.	<u>2,645</u>
From Federal Funds.	28,824
Total (Not to exceed 9.79 F.T.E.).	\$353,759

SECTION 11.028.— To the Department of Social Services

For the purpose of funding the Division of Budget and Finance

Personal Service.	\$1,816,814
Expense and Equipment.	<u>157,152</u>
From General Revenue Fund.	1,973,966

Personal Service.	416,372
Expense and Equipment.	<u>116,518</u>
From Federal Funds.	532,890
Total (Not to exceed 68.39 F.T.E.).	\$2,506,856

SECTION 11.030.— To the Department of Social Services

For Administrative Services

For the Division of Budget and Finance

For the purpose of funding the receipt and disbursement of refunds
and incorrectly deposited receipts to allow the over-collection
of accounts receivables to be paid back to the recipient

From Federal and Other Funds.	\$575,000E
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SECTION 11.035.— To the Department of Social Services

For Administrative Services

For the Division of Budget and Finance

For the purpose of funding payments to counties toward the care and
maintenance of each delinquent or dependent child as provided in
Chapter 211.156, RSMo

From General Revenue Fund.	\$3,842,000
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SECTION 11.036.— To the Department of Social Services

For the purpose of funding the Information Services and Technology

Division

Personal Service.	\$3,626,244
Expense and Equipment.	<u>2,879,228</u>
From General Revenue Fund.	6,505,472

Personal Service.	4,516,856
Expense and Equipment.	<u>25,547,990</u>
From Federal Funds.	30,064,846

Personal Service.	239,938
Expense and Equipment.	<u>2,779,477</u>
From Child Support Collections Fund.	3,019,415

Personal Service.	36,353
Expense and Equipment.	<u>403,289</u>
From Administrative Trust Fund	439,642

Expense and Equipment From Educational Improvement Fund.	127,238
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Personal Service.	7,294
Expense and Equipment.	<u>43,271</u>
From Third Party Liability Collections Fund.	50,565
Total (Not to exceed 185.91 F.T.E.).	<u>\$40,207,178</u>

SECTION 11.037.— To the Department of Social Services

For the purpose of funding the Division of General Services

Personal Service.	\$1,755,571
Expense and Equipment.	<u>734,823</u>
From General Revenue Fund.	2,490,394

Personal Service.	271,182
Expense and Equipment.	<u>83,424</u>
From Federal Funds	354,606

Personal Service From Child Support Enforcement Fund.	93,689
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For the purpose of funding the centralized inventory system

Expense and Equipment From Administrative Trust Fund	5,750,000
Total (Not to exceed 84.57 F.T.E.).	<u>\$8,688,689</u>

SECTION 11.038.— To the Department of Social Services

For the purpose of funding the Division of Legal Services

Personal Service.	\$2,106,078
Expense and Equipment.	<u>326,036</u>
From General Revenue Fund.	2,432,114

Personal Service.	3,142,946
Expense and Equipment.	<u>844,710</u>
From Federal Funds	3,987,656

Personal Service.	483,303
Expense and Equipment.	<u>318,163</u>
From Third Party Liability Collections Fund.	801,466

Personal Service From Child Support Enforcement Fund.	146,074
Total (Not to exceed 168.94 F.T.E.).	<u>\$7,367,310</u>

SECTION 11.039.— To the Department of Social Services

For the purpose of funding the Division of Child Support Enforcement

Personal Service.	\$312,096
Expense and Equipment.	<u>1,586,227</u>
From General Revenue Fund.	1,898,323

Personal Service.....	25,780,723
Expense and Equipment ..	<u>15,333,153</u>
From Federal Funds	41,113,876

Personal Service.....	7,441,240
Expense and Equipment ..	<u>4,191,866</u>
From Child Support Enforcement Collections Fund.	11,633,106

Expense and Equipment	
From Administrative Trust Fund.....	<u>39,690</u>
Total (Not to exceed 1,215.28 F.T.E.).....	\$54,684,995

SECTION 11.040.— To the Department of Social Services

For the Division of Child Support Enforcement

For the purpose of funding the Parents Fair Share Program

Personal Service.....	\$848,133
Expense and Equipment ..	<u>3,599,973</u>
From Federal Funds	4,448,106

Personal Service.....	430,359
Expense and Equipment ..	<u>731,679</u>
From Child Support Enforcement Collections Fund.	<u>1,162,038</u>
Total (Not to exceed 47.63 F.T.E.).....	\$5,610,144

SECTION 11.045.— To the Department of Social Services

For the Division of Child Support Enforcement

For the purpose of funding contractual agreements with local
governments in certain paternity establishment and child support
enforcement cases

From Child Support Enforcement Collections Fund.	\$653,000
From Federal Funds	<u>1,270,000</u>
Total.	\$1,923,000

SECTION 11.050.— To the Department of Social Services

For the Division of Child Support Enforcement

For the purpose of funding payments to private agencies collecting
child support orders and arrearages

From Child Support Enforcement Collections Fund.	\$510,000
From Federal Funds.	<u>990,000</u>
Total.	\$1,500,000

SECTION 11.055.— To the Department of Social Services

For the Division of Child Support Enforcement

For the purpose of funding reimbursement to counties and the City of
St. Louis providing child support enforcement services

From Federal Funds.	\$7,500,000
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SECTION 11.060.— To the Department of Social Services

For the Division of Child Support Enforcement

For the purpose of funding payment to the federal government for
reimbursement of federal Temporary Assistance for Needy Families
payments, incentive payments to local governments and other
states, refunds of bonds, refunds of support payments or
overpayments, and distributions to families

From Federal Funds.	\$36,000,000E
From Alternative Care Trust Fund	167,000
From Debt Offset Escrow Fund	<u>4,000,000E</u>
Total.	\$40,167,000

SECTION 11.080.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding Administrative Services

Personal Service.	\$2,279,779
Expense and Equipment.	<u>519,031</u>
From General Revenue Fund.	2,798,810

Personal Service.	6,380,727
Expense and Equipment.	<u>6,046,891</u>
From Federal Funds	12,427,618

Expense and Equipment	
From Blind Pension Fund.	62,417

Expense and Equipment	
From Third Party Liability Collections Fund.	297,900

Expense and Equipment	
From Intergovernmental Transfer Fund	500,000

Personal Service.	40,716
Expense and Equipment.	<u>11,856</u>
From Early Childhood Development, Education and Care Fund.	52,572
Total (Not to exceed 241.76 F.T.E.).	\$16,139,317

***SECTION 11.085.**— To the Department of Social Services

For the Division of Family Services

For the purpose of funding Field Services Operations

Personal Service.	\$11,043,984
Expense and Equipment.	<u>4,580,152</u>
From General Revenue Fund.	15,624,136

Personal Service.	28,645,833
Expense and Equipment.	<u>9,230,888</u>
From Federal Funds	37,876,721

Personal Service.	261,995
Expense and Equipment.	<u>57,498</u>
From Health Initiatives Fund	319,493

For the purpose of funding salaries of line staff; provided that the division may use up to \$350,000 for the purpose of contracting with community-based not-for-profit agencies which are certified by a recognized national body and which demonstrate a record of providing successful job placement, training and retention services to implement a retention program to address turnover in offices in the metropolitan St. Louis region

Personal Service	
From General Revenue Fund.	37,727,830
From Federal Funds	72,318,916
From Health Initiatives Fund.	<u>475,040</u>
Total (Not to exceed 5,217.99 F.T.E.).	\$164,342,136

*I hereby veto \$62,353 general revenue and \$28,673 federal funds for two supervisors and associated expense and equipment related to presumptive eligibility. These positions are not necessary to the program and were not recommended in the Executive Budget.

Personal Service by \$47,462 from \$11,043,984 to \$10,996,522 from General Revenue Fund.
Expense and Equipment by \$14,891 from \$4,580,152 to \$4,565,261 from General Revenue Fund.
From \$15,624,136 to \$15,561,783 in total from General Revenue.
Personal Service by \$21,826 from \$28,645,833 to \$28,624,007 from Federal Funds.
Expense and Equipment by \$6,847 from \$9,230,888 to \$9,224,041 from Federal Funds.
From \$37,876,721 to \$37,848,048 in total from Federal Funds.
From \$164,342,136 to \$164,251,110 in total for the section.

BOB HOLDEN, Governor

SECTION 11.100.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding the electronic benefit transfers (EBT)

system to reduce fraud, waste, and abuse

Expense and Equipment

From General Revenue Fund.	\$2,443,264
From Federal Funds	2,669,581
From Intergovernmental Transfer Fund.	<u>996,505</u>
Total.	\$6,109,350

SECTION 11.105.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding staff training

Expense and Equipment

From General Revenue Fund.	\$1,820,000
From Federal Funds.	<u>548,632</u>
Total.	\$2,368,632

SECTION 11.110.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding the receipt of funds from the Polk County

and Bolivar Charitable Trust for the exclusive benefit and use

of the Polk County Office

From Charitable Trust Account.	\$10,000
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SECTION 11.115.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding contractor, hardware, and other costs

associated with planning, development, and implementation of a

Family Assistance Management Information System (FAMIS)

From General Revenue Fund.	\$2,451,822
From Federal Funds	<u>3,789,073</u>
Total.	\$6,240,895

SECTION 11.120.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding Direct Client Support and for other
welfare related activities

From General Revenue Fund.....	\$2,000,000
From Federal Funds	<u>12,128,085</u>
Total	\$14,128,085

SECTION 11.125.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding Community Partnerships

Personal Service

From General Revenue Fund.....	\$161,956
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For grants and contracts to Caring Communities, Community
Partnerships and other community initiatives and related
expenses

From General Revenue Fund.....	4,720,986
From Federal Funds	7,483,799
From Intergovernmental Transfer Fund.	4,016,201

For Missouri Mentoring Partnership

From General Revenue Fund.....	1,200,857
From Federal Funds.	<u>778,143</u>
Total (Not to exceed 5.38 F.T.E.).....	\$18,361,942

SECTION 11.130.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding Food Stamp work training-related expenses

From General Revenue Fund.....	\$82,000
From Federal Funds	<u>7,100,000</u>
Total	\$7,182,000

SECTION 11.135.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding Child Care Services for recipients of the
programs funded by the Temporary Assistance for Needy Families
Block Grant, those who would be at risk of being eligible for
Temporary Assistance for Need Families, and low-income families,
the general administration of the programs, early childhood care
and education programs pursuant to Chapter 313, RSMo, and to
support the Educare program not to exceed \$3,000,000 expenses

From General Revenue Fund.....	\$45,939,600
From Federal Funds	104,223,960
From Early Childhood Development, Education and Care Fund.	14,920,914

For the purpose of payments to accredited child care providers
pursuant to Chapter 313, RSMo

From Early Childhood Development, Education and Care Fund.	3,153,500
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For the purpose of funding early childhood start-up and expansion
grants pursuant to Chapter 313, RSMo

From Early Childhood Development, Education and Care Fund.	3,784,200
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For the purpose of funding early childhood development, education, and care programs for low-income families pursuant to Chapter 313, RSMo	
From Early Childhood Development, Education and Care Fund.	3,153,500
For the purpose of funding certificates to low-income, at-home families for early childhood services pursuant to Chapter 313, RSMo	
From Early Childhood Development, Education and Care Fund.	3,153,500
Total.	\$178,329,174

SECTION 11.140.— To the Department of Social Services

For the Division of Family Services	
For the purpose of funding the payment of Temporary Assistance for Needy Families benefits and payments to employers participating in the Wage Supplementation Program	
From General Revenue Fund.	\$24,200,000
From Federal Funds	117,402,175E

For the purpose of funding Grandparent Foster Care payments	
From General Revenue Fund.	7,282,030
Total.	\$148,884,205

SECTION 11.145.— To the Department of Social Services

For the Division of Family Services	
For the purpose of funding supplemental payments to aged or disabled persons	
From General Revenue Fund.	\$250,000

SECTION 11.150.— To the Department of Social Services

For the Division of Family Services	
For the purpose of funding nursing care payments to aged, blind, or disabled persons, provided a portion of this appropriation may be transferred to the Department of Mental Health for persons removed from the Supplemental Nursing Care Program and placed in the Supported Housing Program, resulting in a reduction of Department of Mental Health supplemental nursing home clients and for personal funds to recipients of Supplemental Nursing Care payments as required by Section 208.030, RSMo	
From General Revenue Fund.	\$25,538,684

SECTION 11.152.— To the Department of Social Services

For the Division of Family Services	
For the purpose of funding General Relief Program payments	
From Intergovernmental Transfer Fund.	\$5,550,000
From Federal Funds.	740,000
Total (0 F.T.E.).	\$6,290,000

SECTION 11.155.— To the Department of Social Services

For the Division of Family Services	
For the purpose of funding receipt and disbursement of Supplemental Security Income Program payments	
From Federal Funds.	\$4,000,000

SECTION 11.160.— To the Department of Social Services
For the Division of Family Services
For the purpose of funding Blind Pension and supplemental payments to
blind persons
From Blind Pension Fund. \$18,443,348

SECTION 11.165.— To the Department of Social Services
For the Division of Family Services
For the purpose of funding benefits and services as provided by the
Indochina Migration and Refugee Assistance Act of 1975 as
amended
From Federal Funds. \$3,812,553

SECTION 11.170.— To the Department of Social Services
For the Division of Family Services
For the purpose of funding community services programs provided by
Community Action Agencies, including programs to assist the
homeless, under the provisions of the Community Services Block
Grant
From Federal Funds. \$15,603,980

SECTION 11.175.— To the Department of Social Services
For the Division of Family Services
For the purpose of funding grants for local initiatives to assist the homeless
From Federal Funds. \$500,000

SECTION 11.180.— To the Department of Social Services
For the Division of Family Services
For the purpose of funding the Emergency Shelter Grant Program
From Federal Funds. \$1,340,000

SECTION 11.185.— To the Department of Social Services
For the Division of Family Services
For the purpose of funding the Surplus Food Distribution Program and
the receipt and disbursement of Donated Commodities Program
payments
From Federal Funds. \$1,000,000

SECTION 11.190.— To the Department of Social Services
For the Division of Family Services
For the purpose of funding the Low-Income Home Energy Assistance
Program
From Federal Funds (Not to exceed 55.81 F.T.E.). \$31,794,695E

SECTION 11.197.— To the Department of Social Services
For the Division of Family Services
For the purpose of funding administration of blind services
Personal Service. \$269,833
Expense and Equipment. 116,200
From General Revenue Fund. 386,033

Personal Service.....	3,045,694
Expense and Equipment.....	<u>892,431</u>
From Federal Funds.....	3,938,125

Personal Service.....	573,580
Expense and Equipment.....	<u>93,027</u>
From Blind Pension Fund.....	<u>666,607</u>
Total (Not to exceed 129.53 F.T.E.).....	\$4,990,765

SECTION 11.200.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding services for the visually impaired

From General Revenue Fund.....	\$1,239,935
From Federal Funds.....	5,085,000
From Blind Pension Fund.....	310,000
From Donated Funds.....	<u>100,000</u>
Total.....	\$6,734,935

SECTION 11.205.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding services for children and families to

include the programs and activities delineated in this section

For the purpose of funding children's treatment services, including,

but not limited to, home-based services; day treatment services;

preventive services; child care; family reunification services;

intensive in-home services; child assessment centers; and

services provided through comprehensive, expedited permanency

systems of care for children and families

From General Revenue Fund.....	\$8,329,815
From Federal Funds.....	5,486,047

For the purpose of funding Foster Care payments, including

grandparent foster care and guardian foster care; related

services; expenses related to the training of foster parents;

intensive in-home services; and services provided through

comprehensive, expedited permanency systems of care for children

and families

From General Revenue Fund.....	27,205,992
From Federal Funds.....	11,216,611

For the purpose of funding Adoption Subsidy payments and related services

From General Revenue Fund.....	33,211,515
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From Federal Funds.....	13,169,821
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For the purpose of funding independent living placements and

therapeutic treatment services, including services provided

through comprehensive, expedited permanency systems of care for

children and families

From General Revenue Fund.....	1,777,894
From Federal Funds.....	3,393,228

For the purpose of funding any programs enumerated in this section,
including services provided through comprehensive, expedited
permanency systems of care for children and families

From General Revenue Fund.....	9,678,918
From Federal Funds.	<u>9,273,261</u>
Total.	\$122,743,102

SECTION 11.210.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding Regional Child Assessment Centers

From General Revenue Fund.....	\$2,375,000
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SECTION 11.215.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding residential placements and therapeutic
treatment services, including services provided through
comprehensive, expedited permanency systems of care for children
and families

From General Revenue Fund.....	\$29,017,862
From Federal Funds	<u>40,709,284</u>
Total.	\$69,727,146

SECTION 11.220.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding diversion of children from inpatient
psychiatric treatment and to provide services to reduce the
number of children's inpatient medical hospitalization days

From General Revenue Fund.....	\$6,561,278
From Federal Funds.	<u>9,691,373</u>
Total.	\$16,252,651

SECTION 11.225.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding residential placement payments to counties
for children in the custody of juvenile courts

From Federal Funds.	\$700,000
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SECTION 11.230.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding services and programs to assist victims of
domestic violence

From General Revenue Fund.....	\$4,300,000
From Federal Funds	<u>1,687,653</u>
Total.	\$5,987,653

SECTION 11.235.— To the Department of Social Services

For Division of Family Services

For the purpose of funding the Child Abuse and Neglect Prevention
Grant and Children Justice Act Grant

From Federal Funds.	\$1,000,000
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SECTION 11.240.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding transactions involving personal funds of
children in the custody of the Division of Family Services or
the Division of Youth Services

From Alternative Care Trust Fund. \$9,000,000E

SECTION 11.280.— To the Department of Social Services

For the Division of Youth Services

For the purpose of funding Central Office and Regional Offices

Personal Service. \$2,010,264

Expense and Equipment. 230,757

From General Revenue Fund. 2,241,021

Personal Service. 534,179

Expense and Equipment. 117,846

From Federal Funds. 652,025

Total (Not to exceed 65.73 F.T.E.). \$2,893,046

SECTION 11.285.— To the Department of Social Services

For the Division of Youth Services

For the purpose of funding treatment services including foster care
and contractual payments

Personal Service. \$30,646,683

Expense and Equipment. 2,743,632

From General Revenue Fund. 33,390,315

Personal Service. 6,490,534

Expense and Equipment. 7,073,293

From Federal Funds 13,563,827

Personal Service. 2,345,539

Expense and Equipment. 2,231,732

From DOSS Educational Improvement Fund 4,577,271

Personal Service. 105,022

Expense and Equipment. 10,135

From Health Initiatives Fund. 115,157

Total (Not to exceed 1,392.00 F.T.E.). \$51,646,570

SECTION 11.300.— To the Department of Social Services

For the Division of Youth Services

For the purpose of funding incentive payments to counties for
community-based treatment programs for youth

From General Revenue Fund. \$5,484,755

From Gaming Commission Fund. 500,000

Total. \$5,984,755

SECTION 11.390.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding administrative services. The single
agency administering the Medicaid program is only authorized to
reimburse for benefits that exceed a recipient's spend down
amount

Personal Service.	\$4,119,512
Expense and Equipment.	<u>4,544,447</u>
From General Revenue Fund.	8,663,959
Personal Service.	5,380,177
Expense and Equipment.	<u>8,344,811</u>
From Federal Funds	13,724,988
Personal Service.	16,581
Expense and Equipment.	<u>5,110</u>
From Pharmacy Rebates Fund	21,691
Personal Service.	263,435
Expense and Equipment.	<u>31,385</u>
From Health Initiatives Fund	294,820
Personal Service.	70,374
Expense and Equipment.	<u>10,281</u>
From Nursing Quality of Care Fund.	80,655
Personal Service.	247,216
Expense and Equipment.	<u>1,414,665</u>
From Third Party Liability Collections Fund.	1,661,881
From Intergovernmental Transfer Fund.	<u>37,142</u>
Total (Not to exceed 295.98 F.T.E.).	\$24,485,136

SECTION 11.400.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding women and minority health care outreach programs. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From General Revenue Fund.	\$750,000
From Federal Funds.	<u>750,000</u>
Total.	\$1,500,000

SECTION 11.405.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding a revenue maximization unit in the Division of Medical Services. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

Personal Service.	\$81,000
Expense and Equipment.	<u>8,286</u>
From Federal Reimbursement Allowance Fund.	89,286

Personal Service.	81,000
Expense and Equipment.	<u>8,286</u>
From Federal Funds.	<u>89,286</u>
Total (Not to exceed 4.00 F.T.E.).	\$178,572

SECTION 11.410.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding fees associated with third-party collections. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From Federal Funds.	\$250,000E
From Third Party Liability Collections Fund.	<u>250,000E</u>
Total.	\$500,000E

SECTION 11.415.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding the operation of the information system.

The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From General Revenue Fund.	\$6,140,308
From Federal Funds	<u>16,216,279</u>
Total.	\$22,356,587

SECTION 11.420.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding contractor payments associated with managed care eligibility and enrollment of Medicaid recipients.

The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From General Revenue Fund.	\$109,586
From Federal Funds	<u>3,110,113</u>
Total.	\$3,219,699

SECTION 11.425.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding pharmaceutical payments under the Medicaid fee-for-service and managed care programs and for the purpose of funding professional fees for pharmacists. The Department of Social Services Division of Medical Services may, prior to January 15, 2003, develop a preferred drug product list, which shall incorporate best medical practices for the use of medications for treating, at a minimum, Medicaid fee-for-service patients. The list shall provide patient access without restriction in every therapeutic class in accordance with CMS guidelines. Access to all products reimbursable through CMS guidelines shall be maintained. Manufacturers may enter into supplemental drug rebate agreements, which have been approved by CMS for the privilege of greater access. The department shall submit to the Chair of the House Budget Committee and the Chair of the Senate Appropriations Committee a report of the following information by September 30 of each year: 1) criteria for prior authorization of drugs; 2) a listing of all medications requiring prior authorization; 3) a number of requests for prior authorizations, including the number of requests approved and denied; 4) a summary of reasons prior authorization was denied;

5) the cost of the prior authorization process for public and private entities; 6) the cost effectiveness of the prior authorization process; 7) an overview of the pharmacy program including management, edits and outcomes reporting. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount	
From General Revenue Fund.....	\$205,915,571
From Federal Funds	487,850,574
From Pharmacy Rebates Fund	47,333,179E
From Pharmacy Reimbursement Allowance Fund	54,255,870
From Health Initiatives Fund	969,293
From Healthy Families Trust Fund-Health Care Account.....	1,041,034
Total.....	\$797,365,521

SECTION 11.430.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, One Dollar to the Pharmacy Reimbursement Allowance Fund

From General Revenue Fund.....	\$1E
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SECTION 11.435.— There is transferred out of the State Treasury, chargeable to the Pharmacy Reimbursement Allowance Fund, One Dollar to the General Revenue Fund as a result of recovering the Pharmacy Reimbursement Allowance Fund

From Pharmacy Reimbursement Allowance Fund.....	\$1E
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SECTION 11.440.— To the Department of Social Services
For the Division of Medical Services

For the purpose of funding physician services and related services, including, but not limited to, clinic and podiatry services, physician-sponsored services and fees, laboratory and x-ray services, and family planning services under the Medicaid fee-for-service and managed care programs. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From General Revenue Fund.....	\$95,106,559
From Federal Funds	172,669,815
From Health Initiatives Fund	1,247,544
From Healthy Families Trust Fund-Health Care Account.....	1,041,034
Total.....	\$270,064,952

SECTION 11.445.— To the Department of Social Services
For the Division of Medical Services

For the purpose of funding dental services under the Medicaid fee-for-service and managed care programs. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From General Revenue Fund.....	\$4,253,117
From Federal Funds	8,148,260
From Health Initiatives Fund	71,162
From Healthy Families Trust Fund-Health Care Account.....	848,773
Total.....	\$13,321,312

SECTION 11.450.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding payments to third-party insurers, employers, or policyholders for health insurance. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From General Revenue Fund.	\$28,175,832
From Federal Funds	<u>45,081,674</u>
Total.	\$73,257,506

SECTION 11.455.— To the Department of Social Services

For the Division of Medical Services

For funding long-term care services

For the purpose of funding home health, respite care, homemaker chore, personal care, advanced personal care, adult day care, AIDS, and children's waiver services, Program for All-Inclusive Care for the Elderly, and other related services under the Medicaid fee-for-service and managed care programs. Provided that an individual eligible for or receiving nursing home care must be given the opportunity to have those Medicaid dollars follow them to the community to the extent necessary to meet their unmet needs as determined by 13 CSR 15 9.030(5) and further be allowed to choose the personal care program option in the community that best meets the individuals' unmet needs. This includes the Consumer Directed Medicaid State Plan Amendment that is administered by the Division of Vocational Rehabilitation in the Department of Elementary and Secondary Education. And further provided that individuals eligible for the Medicaid Personal Care Option must be allowed to choose, from among all the program options, that option which best meets their unmet need as determined by 13 CSR 15 9.030(5); and also be allowed to have their Medicaid funds follow them to the extent necessary to meet their unmet needs to whichever option they choose. This language does not create any entitlements not established by statute. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From General Revenue Fund.	\$101,710,172
From Federal Funds	160,743,179
From Health Initiatives Fund	159,305
From Intergovernmental Transfer Fund	700,000

For the purpose of funding home-delivered meals distributed according to formula to the Area Agencies on Aging. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From Federal Funds	4,191,968
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For the purpose of funding care in nursing facilities, Program for All-Inclusive Care for the Elderly, or other long-term care services under the Medicaid fee-for-service and managed care

programs. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From General Revenue Fund.....	77,579,342
From Federal Funds	260,539,321
From Uncompensated Care Fund	35,600,000
From Intergovernmental Transfer Fund	45,057,297
From Nursing Facility Federal Reimbursement Allowance Fund	7,000,000
From Premium Fund.	82,500
From Healthy Families Trust Fund-Health Care Account.	<u>17,973</u>
Total.	\$693,381,057

SECTION 11.460.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding one-time grants to nursing homes to increase quality and efficiency, to provide one-time funding of \$3,960,754 for high Medicaid volume facilities, and to provide one-time funding of up to \$2,017,484 for facilities reimbursed less than \$85 per bed day. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From Intergovernmental Transfer Fund.	\$4,501,960
From Federal Funds.	<u>7,098,040</u>
Total.	\$11,600,000

SECTION 11.465.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding all other non-institutional services, including, but not limited to, rehabilitation, optometry, audiology, ambulance, training for diabetic patients provided by pharmacists and other health care providers who are certified in diabetes education at a rate of no less than \$40 per hour for the first visit and \$20 per hour for each subsequent visit to be paid directly from the division, broker services, and durable medical equipment under the Medicaid fee-for-service and managed care programs. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From General Revenue Fund.....	\$35,976,674
From Federal Funds	62,182,132
From Healthy Families Trust Fund-Health Care Account	831,745
From Health Initiatives Fund	194,881

For the purpose of funding non-emergency medical transportation. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From General Revenue Fund.....	7,762,000
From Federal Funds.	<u>12,238,000</u>
Total.	\$119,185,432

SECTION 11.470.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding the payment to comprehensive prepaid health care plans or for payments to providers of health care services for persons eligible for medical assistance under the Medicaid fee-for-service programs or State Medical Program as provided by federal or state law or for payments to programs authorized by the Frail Elderly Demonstration Project Waiver as provided by the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508, Section 4744) and by Section 208.152 (22), RSMo. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From General Revenue Fund.	\$87,954,600
From Federal Funds	385,254,847
From Health Initiatives Fund	8,041,710
From Federal Reimbursement Allowance Fund.	116,112,906
From Intergovernmental Transfer Fund	23,213,610
From Healthy Families Trust Fund-Health Care Account.	<u>4,447,110</u>
Total.	\$625,024,783

SECTION 11.475.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding hospital care under the Medicaid fee-for-service and managed care programs, and funding for hospital-employed, Medicaid-enrolled physicians in the emergency departments of Level I, II, III Trauma Centers as defined by the Department of Health and Senior Services and Critical Access Hospitals as defined by the Department of Social Services Division of Medical Services contingent upon adoption of an offsetting increase in the applicable provider tax. The Division of Medical Services may adjust SFY 2003 cost of the uninsured payments to hospitals to reflect the impact on hospitals of the elimination of Medicaid coverage for adults with incomes above 77% of the federal poverty level and who were covered through a Section 1931 transfer. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From General Revenue Fund.	\$16,146,080
From Federal Funds	299,699,458
From Uncompensated Care Fund	52,300,000
From Federal Reimbursement Allowance Fund.	115,735,959
From Health Initiatives Fund	2,797,179
From Healthy Families Trust Fund-Health Care Account	<u>2,365,987</u>

For Safety Net Payments

From Healthy Families Trust Fund-Health Care Account	30,365,444
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For Graduate Medical Education

From Healthy Families Trust Fund-Health Care Account.	<u>10,000,000</u>
Total.	\$529,410,107

SECTION 11.477.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding grants to Federally Qualified Health Centers.

The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From Intergovernmental Transfer Fund. \$3,000,000

SECTION 11.480.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding payments to hospitals under the Federal Reimbursement Allowance Program and for the expenses of the Poison Control Center in order to provide services to all hospitals within the state. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From Federal Funds. \$213,000,000E

From Federal Reimbursement Allowance Fund. 62,000,000E

Total. \$275,000,000

SECTION 11.485.— To the Department of Social Services

For the Division of Medical Services

For funding programs to enhance access to health care for uninsured adults by using fee-for-service, prepaid health plans, or other alternative service delivery and reimbursement methodology approved by the director of the Department of Social Services. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From General Revenue Fund. \$616,935

From Federal Funds 15,239,417

From Federal Reimbursement Allowance Fund and Intergovernmental Transfers 5,351,135

From Reimbursement Allowance Fund 89,128

From Intergovernmental Transfer Fund 1,377,285

For the purpose of funding health care services provided to uninsured adults through local initiatives for the uninsured. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From Federal and Other Funds. 1E

Total. \$22,673,901

SECTION 11.490.— To the Department of Social Services

For the Division of Medical Services

For funding programs to enhance access to care for uninsured children using fee-for-services, prepaid health plans, or other alternative service delivery and reimbursement methodology approved by the director of the Department of Social Services. In order to be eligible, and pursuant to the provisions of

Section 208.631, RSMo, parents and guardians of uninsured children with incomes between two hundred twenty-six and three hundred percent of the federal poverty level shall submit with their application two health insurance quotes from insurers providing services in their community. Said quotes shall exceed one hundred thirty-three percent of the average monthly premium currently required in the Missouri Consolidated Health Care Plan. Up to Seven Million Dollars of the funds appropriated herein may be used for direct medical services by local health agencies contracted through the Department of Health. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From General Revenue Fund.	\$11,923,909
From Federal Funds	75,631,244
From Federal Reimbursement Allowance Fund and Intergovernmental Transfers	8,300,000
From Health Initiatives Fund	4,950,000
From Pharmacy Rebates Fund	755,579
From Pharmacy Reimbursement Allowance Fund	201,394
From Premium Fund.	<u>1,000,000</u>
Total.	\$102,762,126

SECTION 11.495.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding uncompensated care hospital payments under the Medicaid fee-for-service and managed care programs. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From Federal Funds.	\$25,000,000E
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SECTION 11.500.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, One Hundred Eighty Million Dollars to the Federal Reimbursement Allowance Fund

From General Revenue Fund.	\$180,000,000E
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SECTION 11.505.— There is transferred out of the State Treasury, chargeable to the Federal Reimbursement Allowance Fund, One Hundred Eighty Million Dollars to the General Revenue Fund as a result of reconciling the Federal Reimbursement Allowance Fund

From Federal Reimbursement Allowance Fund.	\$180,000,000E
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SECTION 11.510.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, One Hundred Twenty Million Dollars to the Nursing Facility Federal Reimbursement Allowance Fund

From General Revenue Fund.	\$120,000,000E
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SECTION 11.515.— There is transferred out of the State Treasury,
chargeable to the Nursing Facility Federal Reimbursement
Allowance Fund, One Hundred Twenty Million Dollars to the
General Revenue Fund as a result of reconciling the Nursing
Facility Federal Reimbursement Allowance Fund
From Nursing Facility Federal Reimbursement Allowance Fund. \$120,000,000E

SECTION 11.520.— There is transferred out of the State Treasury,
chargeable to the Nursing Facility Federal Reimbursement
Allowance Fund, One Million, Five Hundred Thousand Dollars to
the Nursing Facility Quality of Care Fund
From Nursing Facility Federal Reimbursement Allowance Fund. \$1,500,000

SECTION 11.525.— To the Department of Social Services
For the Division of Medical Services
For the purpose of funding Nursing Facility Federal Reimbursement
Allowance payments as provided by law. The single state agency
administering the Medicaid program is only authorized to
reimburse for benefits that exceed a recipient's spend down
amount
From Federal Funds. \$151,607,000E
From Nursing Facility Federal Reimbursement Allowance Fund 33,393,000E
Total. \$185,000,000

SECTION 11.530.— To the Department of Social Services
For the Division of Medical Services
For the purpose of funding Medicaid services for the Department of
Mental Health under the Medicaid fee-for-service and managed
care programs. The single state agency administering the
Medicaid program is only authorized to reimburse for benefits
that exceed a recipient's spend down amount
From Federal Funds. \$195,166,761E

SECTION 11.535.— To the Department of Social Services
For the Division of Medical Services
For the purpose of funding Medicaid services for the Department of
Health and Senior Services under the Medicaid fee-for-service
and managed care programs. The single state agency
administering the Medicaid program is only authorized to
reimburse for benefits that exceed a recipient's spend down
amount
From General Revenue Fund. \$1,000,000
From Federal Funds 3,000,000
Total (Not to exceed 75.00 F.T.E.). \$4,000,000

SECTION 11.540.— To the Department of Social Services
For the Division of Medical Services
For the purpose of funding medical benefits for recipients of the
State Medical Program, including coverage in managed care
programs. The single state agency administering the Medicaid
program is only authorized to reimburse for benefits that exceed
a recipient's spend down amount

From General Revenue Fund.	\$22,020,970
From Health Initiatives Fund	353,437
From Pharmacy Reimbursement Allowance Fund	846,090
From Intergovernmental Transfer Fund	<u>10,000,000</u>
Total.	\$33,220,497

SECTION 11.545.— To the Department of Social Services

For the Division of Medical Services

For the purpose of supplementing appropriations for any medical service under the Medicaid fee-for-service, managed care, or State Medical programs, including related services. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From Federal Funds.	\$18,000,000
From Third Party Liability Collections Fund.	11,400,000

For the purpose of funding Intergovernmental Transfer initiating transactions

From Federal Funds	88,109,580
From Intergovernmental Transfer Fund.	<u>56,190,420</u>
Total.	\$173,700,000

BILL TOTALS

General Revenue Fund.	\$1,071,380,090
Federal Funds.	3,824,502,618
Other Funds.	<u>464,698,108</u>
Total.	\$5,360,580,816

Approved June 26, 2002

HB 1112 [CCS SCS HCS HB 1112]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: CHIEF EXECUTIVE OFFICE AND MANSION, LT. GOVERNOR, SECRETARY OF STATE, STATE AUDITOR, STATE TREASURER, ATTORNEY GENERAL, MISSOURI PROSECUTING ATTORNEYS AND CIRCUIT ATTORNEYS RETIREMENT SYSTEMS, JUDICIARY, OFFICE OF STATE PUBLIC DEFENDER, GENERAL ASSEMBLY, MISSOURI COMMISSION ON INTERSTATE COOPERATION, COMMITTEE ON LEGISLATIVE RESEARCH, VARIOUS JOINT COMMITTEES, AND INTERIM COMMITTEES.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Chief Executive's Office and Mansion, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Missouri Prosecuting Attorneys and Circuit Attorneys Retirement Systems, and the Judiciary and the Office of the State Public Defender, and the several divisions and programs thereof, and for the payment of salaries and mileage of members of the State Senate and the House of Representatives and contingent expenses of

the General Assembly, including salaries and expenses of elective and appointive officers and necessary capital improvements expenditures; for salaries and expenses of members and employees and other necessary operating expenses of the Missouri Commission on Interstate Cooperation, the Committee on Legislative Research, various joint committees, for the expenses of the interim committees established by the General Assembly, and to transfer money among certain funds, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2002 and ending June 30, 2003.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2002 and ending June 30, 2003 as follows:

***SECTION 12.005.**— To the Governor

For the purpose of funding the operations of the Governor's Office
and the Governor's mansion and furthermore all staff in the
Governor's office shall be paid from this section only

Personal Service and/or Expense and Equipment.	\$2,185,981
Personal Service and/or Expense and Equipment for the Mansion.	<u>181,815</u>
From General Revenue Fund (Not to exceed 42.9 F.T.E.).	\$2,185,981

*I hereby veto \$181,815 for the Governor's Office. This veto is necessary to correct a bill drafting error.

Personal Service and/or Expense and Equipment by \$181,815 from \$2,185,981 to \$2,004,166.

BOB HOLDEN, Governor

SECTION 12.010.— To the Governor

For expenses incident to emergency duties performed by the National
Guard when ordered out by the Governor

From General Revenue Fund (0 F.T.E.).	\$1E
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SECTION 12.020.— To the Governor

For Association Dues

From General Revenue Fund (0 F.T.E.).	\$150,150
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SECTION 12.030.— To the Governor

For the Governor's Mansion Preservation Advisory Commission

From General Revenue Fund.	\$3,000
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SECTION 12.035.— To the Governmental Emergency Fund Committee

For allocation by the committee to state agencies that qualify for
emergency or supplemental funds under the provisions of Section
33.720, RSMo

From General Revenue Fund (0 F.T.E.).	\$1E
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SECTION 12.040.— To the Lieutenant Governor

Personal Service.....	\$300,899
Expense and Equipment.....	66,211
Personal Service and/or Expense and Equipment.....	<u>40,783</u>
From General Revenue Fund (Not to exceed 8.50 F.T.E.).....	\$407,893

SECTION 12.045.— To the Secretary of State

Personal Service.....	\$6,237,008
Expense and Equipment.....	2,660,284
Personal Service and/or Expense and Equipment.....	<u>988,588</u>
From General Revenue Fund.....	9,885,880

Personal Service.....	504,057
Expense and Equipment.....	<u>227,574</u>
From Federal Funds.....	731,631

Personal Service.....	77,900
Expense and Equipment.....	<u>2,922,496</u>
From Secretary of State's Technology Trust Fund Account.....	3,000,396

Personal Service.....	899,969
Expense and Equipment.....	<u>397,727</u>
From Local Records Preservation Fund.....	1,297,696

Expense and Equipment	
From Secretary of State - Wolfner State Library Fund.....	35,000

Personal Service.....	121,458
Expense and Equipment.....	<u>163,464</u>
From Secretary of State Institution Gift Trust Fund.....	284,922

Personal Service.....	121,458
Expense and Equipment.....	<u>163,464</u>
From Investor Education Fund.....	<u>284,922</u>
Total (Not to exceed 294.40 F.T.E.).....	\$15,520,447

SECTION 12.050.— To the Secretary of State

For refunds of securities, corporations, uniform commercial code, and
miscellaneous collections of the Secretary of State's Office

From General Revenue Fund (0 F.T.E.).....	\$50,000E
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SECTION 12.053.— To the Secretary of State

For reimbursement to victims of securities fraud and other violations
pursuant to Section 409.407, RSMo, not to exceed funds collected
from violators, provided that the General Assembly shall be
notified, in writing, of the source of funds and the purpose for
which they shall be expended prior to the use of said funds

From Investor Restitution Fund.....	\$55,000E
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SECTION 12.055.— To the Secretary of State

For expenses of initiative referendum and constitutional amendments

From General Revenue Fund (0 F.T.E.).....	\$1,100,000E
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SECTION 12.060.— To the Secretary of State
For election costs associated with absentee ballots
From General Revenue Fund (0 F.T.E.). \$50,000

SECTION 12.062.— To the Secretary of State
For election reform grants and related matching funds, provided that
the General Assembly shall be notified, in writing, of the
source of funds and the purpose for which they shall be expended
prior to the use of said funds
From General Revenue Fund. \$40,000
From Federal Funds. 1E
Total (0 F.T.E.). \$40,001

SECTION 12.065.— To the Secretary of State
For historical repository grants
From Federal Funds (0 F.T.E.). \$300,000

SECTION 12.070.— To the Secretary of State
For the preservation of nationally significant records at the local level
From Federal Funds (0 F.T.E.). \$175,000

SECTION 12.075.— To the Secretary of State
For local records preservation grants
From Local Records Preservation Fund (0 F.T.E.). \$600,000

SECTION 12.080.— To the Secretary of State
For preserving legal, historical, and genealogical materials and
making them available to the public, all expenditures
Personal Service. \$116,460E
Expense and Equipment 33,515E
From State Document Preservation Fund (Not to exceed 3.00 F.T.E.). \$149,975

SECTION 12.085.— To the Secretary of State
For aid to public libraries
From General Revenue Fund (0 F.T.E.). \$3,770,657

SECTION 12.090.— To the Secretary of State
For the Remote Electronic Access for Libraries (REAL) Program
From General Revenue Fund (0 F.T.E.). \$2,959,250

SECTION 12.095.— To the Secretary of State
For the Literacy Investment for Tomorrow (LIFT) Program
From General Revenue Fund (0 F.T.E.). \$69,450

SECTION 12.100.— To the Secretary of State
For all allotments, grants, and contributions from the federal
government or from any sources that may be deposited in the
State Treasury for the use of the Missouri State Library
From Federal Funds (0 F.T.E.). \$1,500,000E

SECTION 12.105.— To the Secretary of State
For library networking grants
From Library Networking Fund (0 F.T.E.). \$1E

SECTION 12.115.— To the State Auditor

Personal Service.....	\$4,751,527
Expense and Equipment ..	1,443,660
Personal Service and/or Expense and Equipment.	<u>688,354</u>
From General Revenue Fund.	6,883,541

Personal Service.....	463,460
Expense and Equipment.	<u>44,967</u>
From Federal Funds	508,427

Personal Service.....	58,804
Expense and Equipment.	<u>22,580</u>
From Gaming Commission Fund.	81,384

Personal Service.....	37,532
Expense and Equipment.	<u>2,611</u>
From Conservation Commission Fund.	40,143

Personal Service	
From Parks Sales Tax Fund.	18,745

Personal Service	
From Soil and Water Sales Tax Fund ..	18,054

Personal Service.....	566,402
Expense and Equipment.	<u>22,210</u>
From State Highways and Transportation Department Fund ..	588,612

Personal Service.....	564,656
Expense and Equipment.	<u>52,616</u>
From Petition Audit Revolving Trust Fund.	<u>617,272</u>
Total (Not to exceed 178.27 F.T.E.).	\$8,756,178

SECTION 12.120.— To the State Treasurer

Personal Service.....	\$1,282,524
Expense and Equipment ..	419,942
Personal Service and/or Expense and Equipment..	<u>189,163</u>
From General Revenue Fund.	1,891,629

Expense and Equipment	
From Central Check Mailing Service Revolving Fund.	225,000E

Personal Service	
From State Highways and Transportation Department Fund ..	458,699

Personal Service.....	36,232
Expense and Equipment.	<u>3,280</u>
From Second Injury Fund.	39,512

For Unclaimed Property Division administrative costs including expense and equipment for auctions, advertising, and promotions	
From Abandoned Fund Account.	225,000E

For preparation and dissemination of information or publications, or
for refunding overpayments
From Treasurer's Information Fund. 8,000
Total (Not to exceed 51.00 F.T.E.) \$2,847,840

SECTION 12.125.— To the State Treasurer
For issuing duplicate checks or drafts as provided by law
From General Revenue Fund (0 F.T.E.). \$1,500,000E

SECTION 12.130.— To the State Treasurer
For outlawed checks
From General Revenue Fund (0 F.T.E.). \$25,000E

SECTION 12.135.— To the State Treasurer
For distribution of funds to County Recorder offices in accordance
with Section 59.800, RSMo
From Statutory County Recorder's Fund (0 F.T.E.). \$1E

SECTION 12.140.— To the State Treasurer
For payment of claims for abandoned property transferred by holders
to the state
From Abandoned Fund Account (0 F.T.E.). \$16,000,000E

SECTION 12.145.— To the State Treasurer
For transfer of such sums as may be necessary to make payment of claims
from the Abandoned Fund Account pursuant to Chapter 447, RSMo
From General Revenue Fund. \$1E

SECTION 12.150.— To the State Treasurer
There is transferred out of the State Treasury, chargeable to the
Abandoned Fund Account, Fifteen Million Dollars to the General
Revenue Fund
From Abandoned Fund Account. \$15,000,000E

SECTION 12.155.— To the State Treasurer
For refunds of excess interest from the Linked Deposit Program
From General Revenue Fund (0 F.T.E.). \$3,000E

SECTION 12.160.— To the State Treasurer
There is transferred out of the State Treasury, chargeable to the
funds listed below, to the Missouri Investment Trust Fund,
contingent upon passage of legislation authorizing conveyance of
the following funds to the Trust
From Missouri Arts Council Trust Fund. \$2,000,000E
From Missouri Humanities Council Trust Fund. 1,000,000E
From Secretary of State - Wolfner State Library Fund. 375,000E
Total. \$3,375,000E

SECTION 12.165.— To the State Treasurer
There is transferred out of the State Treasury, chargeable to the
Debt Offset Escrow Fund, Eighty-one Thousand, Seven Hundred
Seventy-seven Dollars to the General Revenue Fund
From Debt Offset Escrow Fund. \$81,777E

SECTION 12.170.— To the State Treasurer

There is transferred out of the State Treasury, chargeable to various funds, One Dollar to the General Revenue Fund

From Various Funds. \$1E

SECTION 12.175.— To the Attorney General

Personal Service.	\$9,071,002
Expense and Equipment	2,139,991
Personal Service and/or Expense and Equipment.	<u>1,245,666</u>
From General Revenue Fund.	12,456,659

Personal Service.	431,838
Expense and Equipment.	<u>495,402</u>
From Federal Funds	927,240

Personal Service.	95,065
Expense and Equipment.	<u>30,747</u>
From Gaming Commission Fund.	125,812

Personal Service.	31,942
Expense and Equipment.	<u>4,715</u>
From Natural Resources Protection Fund-Water Pollution Permit Fee Subaccount.	36,657

Personal Service.	31,942
Expense and Equipment.	<u>5,215</u>
From Solid Waste Management Fund	37,157

Personal Service	
From Petroleum Storage Tank Insurance Fund	21,930

Personal Service.	33,392
Expense and Equipment.	<u>11,300</u>
From Motor Vehicle Commission Fund	44,692

Expense and Equipment	
From Health Spa Regulatory Fund.	5,000

Personal Service.	31,930
Expense and Equipment.	<u>4,715</u>
From Natural Resources Protection Fund-Air Pollution Permit Fee Subaccount.	36,645

Expense and Equipment	
From Attorney General's Court Costs Fund	187,000

Personal Service.	10,645
Expense and Equipment.	<u>2,267</u>
From Soil and Water Sales Tax Fund	12,912

Personal Service.	592,539
Expense and Equipment.	<u>1,962,480</u>
From Merchandising Practices Revolving Fund.	2,555,019

Personal Service.	229,150
Expense and Equipment.	<u>225,121</u>
From Workers' Compensation Fund.	454,271
Personal Service.	1,558,924
Expense and Equipment.	<u>505,107</u>
From Second Injury Fund.	2,064,031
Personal Service From Lottery Enterprise Fund	48,383
Personal Service.	324,418
Expense and Equipment.	<u>254,400</u>
From Attorney General's Anti-Trust Fund.	578,818
Personal Service.	31,930
Expense and Equipment.	<u>4,715</u>
From Hazardous Waste Fund.	36,645
Personal Service.	10,657
Expense and Equipment.	<u>2,265</u>
From Safe Drinking Water Fund.	12,922
Personal Service.	216,529
Expense and Equipment.	<u>10,165</u>
From Hazardous Waste Remedial Fund	226,694
Personal Service.	21,905
Expense and Equipment.	<u>11,700</u>
From Inmate Incarceration Reimbursement Act Revolving Fund	33,605
Personal Service.	10,645
Expense and Equipment.	<u>2,262</u>
From Mined Land Reclamation Fund.	12,907
Total (Not to exceed 363.05 F.T.E.).	<u>\$19,914,999</u>

SECTION 12.180.— To the Attorney General

For law enforcement, domestic violence and victims' services

Expense and Equipment From Federal Funds (0 F.T.E.).	\$100,000
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SECTION 12.185.— To the Attorney General

For expenses related to Americans with Disabilities Act cases

Personal Service.	\$57,077
Expense and Equipment.	<u>6,360</u>
From General Revenue Fund (Not to exceed 1.50 F.T.E.).	\$63,437

SECTION 12.190.— To the Attorney General

For a Medicaid fraud unit

Personal Service.	\$161,857
Expense and Equipment.	126,746
Personal Service and/or Expense and Equipment.	<u>32,067</u>
From General Revenue Fund.	320,670

Personal Service.....	697,598
Expense and Equipment.....	<u>809,711</u>
From Federal Funds.....	<u>1,507,309</u>
Total (Not to exceed 23.00 F.T.E.).....	\$1,827,979

SECTION 12.195.— To the Attorney General

For the Missouri Office of Prosecution Services

Personal Service.....	\$122,420
Expense and Equipment.....	<u>930,900</u>
From Federal Funds.....	<u>1,053,320</u>

Personal Service.....	116,452
Expense and Equipment.....	<u>139,844</u>
From Missouri Office of Prosecution Services Fund.....	256,296

Expense and Equipment	
From Missouri Office of Prosecution Services Revolving Fund.....	<u>150,000E</u>
Total (Not to exceed 5.50 F.T.E.).....	\$1,459,616

SECTION 12.200.— To the Attorney General

For participation by the State of Missouri in the National

Association of Attorneys General

Expense and Equipment

From General Revenue Fund (0 F.T.E.).....	\$39,962
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SECTION 12.205.— To the Attorney General

There is transferred out of the State Treasury, chargeable to the

General Revenue Fund, One Hundred Eighty Thousand Dollars to the

Attorney General's Court Costs Fund

From General Revenue Fund.....	\$180,000
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SECTION 12.210.— To the Attorney General

There is transferred out of the State Treasury, chargeable to the

General Revenue Fund, Seventy-five Thousand Dollars to the

Attorney General's Anti-Trust Fund

From General Revenue Fund.....	\$75,000
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SECTION 12.300.— To the Supreme Court

For the purpose of funding Judicial Proceedings and Review

Personal Service.....	\$3,449,982
Expense and Equipment.....	<u>952,575</u>
From General Revenue Fund.....	<u>4,402,557</u>

Expense and Equipment	
From Supreme Court Publications Revolving Fund.....	<u>80,000</u>
Total (Not to exceed 77.00 F.T.E.).....	\$4,482,557

SECTION 12.305.— To the Supreme Court

For participation by the State of Missouri in the National Center for

State Courts

From General Revenue Fund (0 F.T.E.).....	\$136,137
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SECTION 12.310.— To the Supreme Court

For the purpose of funding the State Courts Administrator

Personal Service.	\$3,400,135
Expense and Equipment.	<u>866,744</u>
From General Revenue Fund.	4,266,879

Expense and Equipment

From State Court Administration Revolving Fund.	<u>90,000</u>
Total (Not to exceed 91.25 F.T.E.).	\$4,356,879

SECTION 12.315.— To the Supreme Court

For the purpose of funding all grants and contributions of funds from
the federal government or from any other source which may be
deposited in the State Treasury for the use of the Supreme Court
and other state courts

Personal Service.	\$1,436,084
Expense and Equipment	<u>12,301,408</u>
From Federal Funds (Not to exceed 31.25 F.T.E.).	\$13,737,492

SECTION 12.320.— To the Supreme CourtFor the purpose of developing and implementing a program of statewide
court automation

Personal Service.	\$2,378,750
Expense and Equipment	5,112,663
Personal Service and/or Expense and Equipment.	<u>832,379</u>
From General Revenue Fund.	8,323,792

Personal Service.	1,360,954
Expense and Equipment	<u>3,333,900</u>

From the Statewide Court Automation Fund, and any grants,
contributions, or receipts from the federal government or any other
source deposited into the State Treasury for court automation.

	<u>4,694,854</u>
Total (Not to exceed 113.00 F.T.E.).	\$13,018,646

SECTION 12.325.— There is transferred out of the State Treasury,
chargeable to the General Revenue Fund, Two Million, Four
Hundred Sixteen Thousand, Three Hundred and Forty Dollars to
the Judiciary Education and Training Fund

From General Revenue Fund.	\$2,416,340
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SECTION 12.330.— To the Supreme Court

For the purpose of funding judicial education and training

Personal Service.	\$608,366
Expense and Equipment	<u>2,407,367</u>
From Judiciary Education and Training Fund (Not to exceed 16.00 F.T.E.).	\$3,015,733

SECTION 12.340.— To the Supreme Court

For the purpose of funding the Court of Appeals - Western District

Personal Service.	\$2,947,658
Expense and Equipment.	<u>470,385</u>
From General Revenue Fund (Not to exceed 54.30 F.T.E.).	\$3,418,043

SECTION 12.345.— To the Supreme Court

For the purpose of funding the Court of Appeals - Eastern District

Personal Service.....	\$3,930,506
Expense and Equipment.	<u>544,261</u>
From General Revenue Fund (Not to exceed 77.25 F.T.E.).....	\$4,474,767

SECTION 12.350.— To the Supreme Court

For the purpose of funding the Court of Appeals - Southern District

Personal Service.....	\$1,864,570
Expense and Equipment.	<u>462,258</u>
From General Revenue Fund (Not to exceed 34.10 F.T.E.).....	\$2,326,828

SECTION 12.355.— To the Supreme Court

For the purpose of funding circuit court personnel

Personal Service.....	\$106,993,245
Expense and Equipment.	1,132,849
Personal Service and/or Expense and Equipment.	<u>1,150,000</u>
From General Revenue Fund.	109,276,094

Personal Service.....	1,331,079
Expense and Equipment.	<u>419,661</u>
From Federal and Other Funds	1,750,740

Personal Service.....	217,830
Expense and Equipment.	<u>128,039</u>
From Third Party Liability Collections Fund.	345,869

Expense and Equipment	
From Fine Collections Center Interest Revolving Fund.	<u>25,000</u>
Total (Not to exceed 2,918.70 F.T.E.).....	\$111,397,703

SECTION 12.360.— To the Supreme CourtFor the purpose of funding the payment of contingent Personal Service
and/or Expense and equipment of circuit court personnel as
authorized by Section 476.265, RSMo

From General Revenue Fund.	\$100,000
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For the purpose of making payments due from litigants in court
proceedings under set-off against debts authority as provided in
Section 488.020(3), RSMo

From Debt Offset Escrow Fund	100,000E
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For the purpose of funding court-appointed special advocacy programs
as provided in Section 476.777, RSMo

From the Missouri CASA Fund.	200,000
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For the purpose of funding costs associated with creating the
handbook and other programs as provided in Section 452.554, RSMo

From the Domestic Relations Resolution Fund.....	<u>500,000</u>
Total (0 F.T.E.).....	\$900,000

SECTION 12.365.— To the Supreme Court

For the purpose of funding the payment of transcription fees for
preparation of transcripts as authorized and established by
Section 488.2250, RSMo

From General Revenue Fund (0 F.T.E.). \$100,000

SECTION 12.370.— To the Supreme Court

For the purpose of jury costs

From General Revenue Fund (0 F.T.E.). \$268,000

SECTION 12.375.— To the Supreme Court

For the purpose of funding Permanency Planning programs

Expense and Equipment

From General Revenue Fund (0 F.T.E.). \$134,500

SECTION 12.377.— There is transferred out of the State Treasury,

chargeable to the General Revenue Fund, One Million, Eight
Hundred Twenty-one Thousand, Five Hundred Dollars to the Drug
Court Resources Fund

From General Revenue Fund. \$1,821,500

SECTION 12.380.— To the Supreme Court

For the purpose of funding drug courts

Personal Service. \$211,315

Expense and Equipment 1,610,185

From the Drug Court Resources Fund, and any grants, contributions, or
receipts from the federal government or any other source deposited

into the State Treasury for drug courts (Not to exceed 4.00 F.T.E.). \$1,821,500

SECTION 12.385.— To the Commission on Retirement, Removal, and

Discipline of Judges

For the purpose of funding the payment of expenses of the commission

Personal Service. \$162,594

Expense and Equipment. 60,011

From General Revenue Fund (Not to exceed 2.75 F.T.E.). \$222,605

SECTION 12.390.— To the Supreme Court

For the purpose of funding the expenses of the members of the

Appellate Judicial Commission and the several circuit judicial
commissions in circuits having the non-partisan court plan, and
for services rendered by clerks of the Supreme Court, courts of
appeals, and clerks in circuits having the non-partisan court
plan for giving notice of and conducting elections as ordered by
the Supreme Court

From General Revenue Fund (0 F.T.E.). \$10,550

SECTION 12.395.— To the Supreme Court

For the purpose of funding costs associated with appointment of Senior Judges

Personal Service

From General Revenue Fund (Not to exceed 9.00 F.T.E.). \$500,000

SECTION 12.400.— To the Office of State Public Defender

For the purpose of funding the State Public Defender System

Personal Service.	\$22,104,233
Expense and Equipment	5,747,551
For payment of expenses as provided by Chapter 600, RSMo, associated with the defense of violent crimes and/or the defense of cases where a conflict of interest exists.	2,059,850
From General Revenue Fund	29,911,634

For expenses authorized by the Public Defender Commission as provided
by Section 600.090, RSMo

Personal Service.	57,178
Expense and Equipment.	1,157,356
From Legal Defense and Defender Fund	1,214,534

For refunds set-off against debts as required by Section 143.786, RSMo

From Debt Offset Escrow Fund	350,000E
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For all grants and contributions of funds from the federal government
or from any other source which may be deposited in the State
Treasury for the use of the Office of the State Public Defender

From Federal Funds.	125,000
Total (Not to exceed 560.13 F.T.E.).	\$31,601,168

SECTION 12.500.— To the Senate

Salaries of Members.	\$1,071,448
Mileage of Members	56,435
Senate Per Diem.	226,100
Senate Contingent Expenses	9,172,920
Joint Contingent Expenses.	100,000
Joint Committee on Administrative Rules.	119,707
Joint Committee on Public Employee Retirement Systems.	155,000
Joint Committee on Capital Improvements Oversight.	118,964
Joint Committee on Gaming and Wagering.	51,820
From General Revenue Fund.	11,072,394

Senate Contingent Expenses

From Senate Revolving Fund.	40,000
Total.	\$11,112,394

SECTION 12.505.— To the House of Representatives

Salaries of Members.	\$5,117,283
Mileage of Members	342,660
Members' Per Diem.	1,083,950
Representatives' Expense Vouchers.	1,564,800
Leadership Aides and Secretaries	5,402,364
House Research Staff	974,189
Committee Operations for instate committee travel and freshman orientation	90,000
House Staff.	5,259,738
House Appropriations Committee Staff.	415,357
From General Revenue Fund.	20,250,341

House Contingent Expenses	
From House of Representatives Revolving Fund.	45,000
Total.	\$20,295,341

SECTION 12.510.— To the Missouri Commission on Interstate Cooperation
 For payment of dues to the Council of State Governments, the National
 Conference of State Legislatures, the National Conference of
 Commissioners on Uniform State Laws, and for the salaries of the
 secretary and clerks, purchasing supplies, travel within and
 without the state, insurance and premiums on bonds, joint
 conference costs, and other general expenses

From General Revenue Fund.	\$284,403
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SECTION 12.515.— To the Committee on Legislative Research - Administration
 For payment of expenses of members, salaries and expenses of
 employees, and other necessary operating expenses

From General Revenue Fund.	\$1,376,489
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SECTION 12.520.— To the Committee on Legislative Research
 For paper, printing, binding, editing, proofreading, and other
 necessary expenses of publishing the Supplement to the Revised
 Statutes of the State of Missouri

From General Revenue Fund.	\$336,280
From Statutory Revision Fund	535,800
Total.	\$872,080

SECTION 12.525.— To the Committee on Legislative Research - Oversight Division
 For payment of expenses of members, salaries and expenses of
 employees, and other necessary operating expenses

From General Revenue Fund.	\$864,178
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SECTION 12.530.— To the Interim Committees of the General Assembly
 For the Joint Committee on Correctional Institutions and Problems

From General Revenue Fund.	\$5,000
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BILL TOTALS

General Revenue.	\$250,410,473
Federal Funds.	22,416,160
Other Funds.	38,157,968
Total.	\$310,984,061

Approved June 26, 2002

HB 1115 [CCS SCS HCS HB 1115]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: SUPPLEMENTAL PURPOSES.

AN ACT to appropriate money for supplemental purposes for the several departments and offices of state government, and for the payment of various claims for refunds, for persons, firms, and corporations, and for other purposes, and to transfer money among certain funds, from the funds designated for the fiscal period ending June 30, 2002.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, chargeable to the fund and for the agency and purpose designated, for the period ending June 30, 2002, as follows:

SECTION 15.005.— To the Department of Elementary and Secondary Education
For distributions to the free public schools under the School
Foundation Program as provided in Chapter 163, RSMo, for the
Early Childhood Special Education Program
From Early Childhood Development, Education and Care Fund. \$5,287,242

SECTION 15.010.— To the Department of Elementary and Secondary Education
For the Division of Instruction
Personal Service
From Federal Funds. \$210,000
Expense and Equipment
From General Revenue Fund. 43,000
Total. \$253,000

SECTION 15.015.— To the Department of Elementary and Secondary Education
For the First Steps Program
From Early Childhood Development, Education and Care Fund. \$2,370,179

SECTION 15.020.— To the Department of Elementary and Secondary Education
For the purpose of funding payments to school districts for children
in residential placements through the Department of Mental
Health or the Division of Family Services pursuant to Section
167.126, RSMo
From General Revenue Fund. \$1,401,369

SECTION 15.025.— To the Department of Elementary and Secondary Education
For the Missouri Commission for the Deaf
Expense and Equipment
From General Revenue Fund. \$6,374

SECTION 15.030.— To the Department of Higher Education
There is transferred out of the state treasury, chargeable to the
funds listed below, to the Student Grant Fund
From Federal Funds. \$100,000

SECTION 15.035.— To the Department of Higher Education

For the GEAR UP program

Expense and Equipment

From Federal Funds. \$178,900

For scholarships

From GEAR UP Scholarship Fund. 100,000ETotal. \$278,900**SECTION 15.045.**— To the Department of Agriculture

For the Office of the Director

Personal Service. \$62,334

Expense and Equipment 674,298From Federal Funds. \$736,632**SECTION 15.065.**— To the Department of Economic Development

For the Division of Community Development

For the Delta Regional Authority, provided that no federal funds

appropriated to the Authority pursuant to the Consolidated Farm

and Rural Development Act (7 U.S.C. 1921 et seq.) and its

amendments shall be expended in Missouri until a utilization

plan, which shall include a list of Missouri projects with

locations, descriptions, and costs detailed, has been received

and reviewed by both the House Budget Committee Chair and the

Senate Appropriations Committee Chair

From General Revenue Fund. \$120,000

SECTION 15.070.— To the Department of Economic Development

For the Division of Workforce Development

Expense and Equipment

From Federal Funds. \$2,000,000

SECTION 15.075.— To the Department of Labor and Industrial Relations

For the Governor's Council on Disabilities

For general program administration, including all expenditures for

the Assistive Technology Loan Program

From Assistive Technology Loan Revolving Fund. \$500,000

SECTION 15.080.— To the Department of Public Safety

For the Office of the Director

For the Office of Victims of Crime

Personal Service. \$17,442

Expense and Equipment 48,621From Crime Victims' Compensation Fund. \$66,063**SECTION 15.090.**— To the Department of Public Safety

For the Office of the Director

For the Local Law Enforcement Block Grant Program

From Federal Funds. \$75,000

SECTION 15.093.— To the Department of Public Safety

For the Capitol Police

Expense and Equipment

From General Revenue Fund. \$202,500

SECTION 15.095.— To the Department of Public Safety

For the State Highway Patrol

For fringe benefits, including retirement contributions for members
of the Highways and Transportation Employees' and Highway Patrol
Retirement System, and insurance premiums

Expense and Equipment

From State Highways and Transportation Department Fund. \$2,506,000E

SECTION 15.100.— To the Department of Public Safety

For the State Highway Patrol

For the enforcement program

Expense and Equipment

From Federal Funds. \$50,000

From Criminal Record System Fund. 95,102

Total. \$145,102

SECTION 15.105.— To the Department of Public Safety

For the Missouri Veterans' Commission

For the Liberty Memorial in Kansas City

From Veterans' Commission Capital Improvement Trust Fund. \$10,000,000

SECTION 15.107.— To the Department of Public SafetyFor the purpose of funding homeland security initiatives to be
administered by the State Emergency Management Agency with
written notification of distributions of funds given to the
House Budget Committee Chair and the Senate Appropriations
Committee Chair

From Federal Funds. \$4,000,000E

SECTION 15.115.— There is transferred out of the state treasury,chargeable to the Gaming Commission Fund, Two Hundred Seven
Thousand, Nine Hundred Sixty-four Dollars to the Compulsive
Gamblers Fund

From Gaming Commission Fund. \$207,964

SECTION 15.120.— To the Department of Corrections

For the Office of the Director

For the purpose of reducing accumulated compensatory time of
Department personnel

Personal Service and/or Expense and Equipment

From Federal Funds. \$2,700,000

SECTION 15.125.— To the Department of Corrections

For the Office of the Director

For the purpose of funding the expense of fuel and utilities department-wide

From General Revenue Fund. \$5,500,000

SECTION 15.130. — To the Department of Mental Health	
For the Division of Alcohol and Drug Abuse	
For prevention and education services	
From Federal Funds.	\$4,350,349
SECTION 15.135. — To the Department of Mental Health	
For the Division of Alcohol and Drug Abuse	
For the treatment of alcohol and drug abuse	
From Federal Funds.	\$5,201,171
SECTION 15.137. — To the Department of Mental Health	
For the Division of Mental Retardation - Developmental Disabilities	
For early childhood intervention services	
From Mental Health Interagency Payments Fund.	\$2,404,386
SECTION 15.140. — To the Department of Health and Senior Services	
For the Office of the Director	
Personal Service.	\$21,883
Expense and Equipment	<u>41,806</u>
From General Revenue Fund.	\$63,689
SECTION 15.145. — To the Department of Health and Senior Services	
For the Office of Director	
For implementing homeland security measures	
From Federal Funds.	\$19,874,066
SECTION 15.150. — To the Department of Health and Senior Services	
For the Division of Administration	
Expense and Equipment	
From General Revenue Fund.	\$33,194
SECTION 15.155. — To the Department of Health and Senior Services	
For the State Public Health Laboratory	
Personal Service	
From General Revenue Fund.	\$40,900
SECTION 15.160. — To the Department of Health and Senior Services	
For the Division of Environmental Health and Communicable Disease Prevention	
Personal Service	
From General Revenue Fund.	\$13,624
SECTION 15.165. — To the Department of Health and Senior Services	
For the Missouri Senior Rx Program	
Personal Service.	\$319,328
Professional Services	1,703,384
Expense and Equipment.	<u>211,909</u>
From Missouri Senior Rx Fund	<u>2,234,621</u>
If the enrollment fee collections exceed the originally projected	
enrollment revenues, the Commission shall be authorized to spend	
from such collections to cover the cost of third party administration	
Expense and Equipment	
From Missouri Senior Rx Fund.	<u>750,000</u>
Total.	<u>\$2,984,621</u>

SECTION 15.170.— To the Department of Health and Senior Services
For the Missouri Senior Rx Program

There is transferred out of the state treasury, chargeable to the

Healthy Families Trust Fund-Seniors Catastrophic Prescription
Account, Two Million, Three Hundred Fifty-two Thousand, Seven
Hundred Seventy-three Dollars to the Missouri Senior Rx Fund,
including \$118,152 to pay the cost of fringe benefits for staff
of the Missouri Senior Rx Program through appropriations
authorized for Fiscal Year 2002 in HB 5

From Healthy Families Trust Fund-Seniors Catastrophic Prescription Account. . \$2,352,773

SECTION 15.175.— To the Department of Social Services

For Departmental Administration

For the Office of the Director

For the purpose of funding contractual services with Legal Services

Corporations in Missouri which provide legal services to low-income
Missouri citizens. Funds shall be allocated according to the most recent
national census data for the population of poor persons living in Missouri
and in the same manner as current allocation from the Legal Services
Corporation. Funding shall not be allocated if the provisions of Section
504(a)(7) and Section 508(b)(2)(B) of the Omnibus 1996 Appropriations
Bill have not been met by the Legal Services Corporation. Contracts
for services should provide low-income Missouri citizens equal access
to the civil justice system, with high priority on families and children,
domestic violence, the elderly, and qualification for benefits under the
Social Security Act and Work Opportunity Reconciliation Act of 1996.
Contractors shall provide to the department a report of services rendered,
including the number of low-income citizens served, the types of services
provided, the cost per case, and the amount of free and reduced fee legal
services which have been provided; and shall include a full accounting of
all expenditures made by or on behalf of Legal Services Corporations in
Missouri which shall include expenditures of all federal, state, and other
funds. An accounting shall be made for the first six months from July 1,
2001 through December 31, 2001 and a final accounting for the year
through June 30, 2002, and these reports shall include a comparison
with all expenditures for Fiscal Year 2001. The accountings shall be
delivered to the General Assembly, including the House Budget
Committee Chair, the House Appropriations Committee — Social
Services Chair and the Senate Appropriations Committee Chair, and
also to all current House Appropriations Committee — Social Services
members, no later than January 31, 2002, and July 31, 2002 respectively

From Legal Services for Low-Income People Fund. \$750,000

SECTION 15.180.— There is transferred out of the State Treasury,
chargeable to the Tort Victims' Compensation Fund, One Million,
Seven Hundred and Sixty Thousand, Eight Hundred and Thirty
Dollars to the Legal Services for Low-Income People Fund

From Tort Victims' Compensation Fund. \$1,760,830

SECTION 15.185.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding General Relief Program payments

From General Revenue Fund..... \$1,667,592

From Federal Funds. 380,000

Total. \$2,047,592**SECTION 15.190.**— To the Department of Social Services

For the Division of Family Services

For the purpose of funding Blind Pensions and Supplemental payments

to blind persons

From Blind Pension Fund. \$400,000

SECTION 15.195.— To the Department of Social Services

For the Division of Medical Services

For the purpose of supplementing appropriations for any medical

service under the Medicaid fee-for-service, managed care, or

State Medical Program, including related services

From Federal Funds. \$93,000,000

SECTION 15.205.— To the Attorney General

Expense and Equipment

From Merchandising Practices Revolving Fund. \$1,230,000

SECTION 15.210.— To the Supreme Court

For the maximization of federal funds relating to at-risk children

and juvenile court automation

Personal Service. \$286,965

Expense and Equipment 33,625

For reimbursement to counties. 2,175,000From Federal Funds. \$2,495,590**SECTION 15.215.**— There is transferred out of the state treasury,

chargeable to the Healthy Families Trust Fund, Eighty-eight

Million, Five Hundred Thousand Dollars to the General Revenue Fund

From Healthy Families Trust Fund..... \$88,500,000

SECTION 15.217.— To the Office of Administration

For payment of judgement and post judgement interest costs for the

State of Missouri resulting from the final judgement recently

entered in the Farmer's Electric Case

From General Revenue Fund..... \$1,791,370

SECTION 15.220.— There is transferred out of the State Treasury,

chargeable to various funds, such amounts as are necessary for

allocation of costs to other funds in support of the state's

central services, to the General Revenue Fund

From Uncompensated Care Fund.. \$2,525,210

From Mental Health Interagency Payments Fund 34,315

From Department of Health Interagency Payments Fund. 8,318

From Pharmacy Rebates Fund 534,646

From Third Party Liability Collections Fund. 89,728

From Marguerite Ross Barnett Scholarship Fund.	2,349
From Utilicare Stabilization Fund.	3,387
From Intergovernmental Transfer Fund	12,347
From Division of Family Services Donations Fund.	188
From Child Support Enforcement Collections Fund.	306,257
From Missouri Technology Investment Fund	16,654
From Missouri Water Development Fund	2,167
From General Revenue Reimbursements Fund	231,285
From Missouri Humanities Council Trust Fund.	441
From Post Closure Fund	251
From Motorcycle Safety Trust Fund.	25
From Hearing Instrument Specialist Fund.	651
From Compulsive Gamblers Fund.	769
From Missouri Capital Access Program Fund.	813
From Missouri Crime Prevention Information and Programming Fund.	125
From Missouri Housing Trust Fund	41,498
From Treasurer's Information Fund.	23
From State Committee of Interpreters Fund.	204
From Elevator Safety Fund.	530
From Residential Mortgage Licensing Fund	2,179
From Missouri Arts Council Trust Fund.	24,357
From Board of Geologist Registration Fund.	817
From Missouri Commission for the Deaf Board of Certification of Interpreters Fund.	610
From Gaming Commission Bingo Fund.	148
From Secretary of State's Technology Trust Fund Account.	21,734
From Missouri Air Emission Reduction Fund.	16,106
From Missouri National Guard Training Site Fund.	3,198
From Statewide Court Automation Fund	53,373
From Nursing Facility Quality of Care Fund	34,582
From Missouri Student Grant Program Gift Fund.	131
From Division of Tourism Supplemental Revenue Fund	60,297
From Health Initiatives Fund	322,921
From Health Access Incentive Fund.	16,327
From Mental Health Housing Trust Fund.	2
From Family Support Loan Program Fund.	722
From Business Extension Service Team Fund.	4,720
From Peace Officers Standards and Training Commission Fund	12,272
From Independent Living Center Fund.	1,967
From Gaming Commission Fund.	576,473
From Mental Health Earnings Fund	18,577
From Grade Crossing Safety Account Fund.	11,517
From Animal Health Laboratory Fee Fund	3,855
From Mammography Fund.	1,566
From Animal Care Reserve Fund.	6,741
From Division of Aging Elderly Home Delivered Meals Trust Fund	586
From Highway Patrol Inspection Fund.	7,835
From Missouri Public Health Services Fund.	18,267
From Livestock Brands Fund	187
From Veterans' Commission Capital Improvement Trust Fund	74,793
From Commodity Council Merchandising Fund.	1,319
From Single-Purpose Animal Facilities Loan Program Fund.	1,898
From State Fair Fees Fund.	37,054

From Agricultural Product Utilization Grant Fund	1,286
From State Parks Earnings Fund	82,110
From State Parks Revolving Fund.	21
From Natural Resources Revolving Services Fund	12,071
From Historic Preservation Revolving Fund.	3,792
From Missouri Veterans' Homes Fund	618,232
From Department of Natural Resources Cost Allocation Fund.	87,658
From State Facility Maintenance and Operation Fund	188,708
From Office of Administration Revolving Administrative Trust Fund.	531,550
From Working Capital Revolving Fund.	304,966
From Central Check Mailing Service Revolving Fund.	585
From House of Representatives Revolving Fund	239
From Supreme Court Publications Revolving Fund	650
From Adjutant General Revolving Fund	931
From Senate Revolving Fund	237
From Inmate Revolving Fund	49,303
From Department of Social Services Administrative Trust Fund	16,429
From Statutory Revision Fund	5,881
From Department of Economic Development Administrative Fund.	18,576
From Division of Credit Unions Fund.	16,762
From Division of Savings and Loan Supervision Fund	325
From Division of Finance Fund.	105,591
From Insurance Examiners Fund.	107,846
From Natural Resources Protection Fund	251
From Deaf Relay Service and Equipment Distribution Program Fund.	50,625
From Real Estate Appraisers Fund	2,583
From Endowed Care Cemetery Audit Fund.	1,244
From Professional and Practical Nursing Student Loan and Nurse Loan Repayment Fund.	7,545
From Department of Insurance Dedicated Fund.	148,679
From International Promotions Revolving Fund	1,590
From Solid Waste Management Fund-Scrap Tire Subaccount	24,471
From Solid Waste Management Fund	101,632
From Missouri Qualified Fuel Ethanol Producer Incentive Fund	15,172
From Aquaculture Marketing Development Fund.	97
From Clinical Social Workers Fund.	2,370
From Metallic Minerals Waste Management Fund	1,487
From Landscape Architectural Council Fund.	279
From Local Records Preservation Fund	27,125
From Veterans' Trust Fund.	387
From State Committee of Psychologists Fund	4,430
From Livestock Sales and Markets Fees Fund	160
From Manufactured Housing Fund	7,776
From Natural Resources Protection Fund-Air Pollution Asbestos Fee Subaccount	4,024
From Petroleum Storage Tank Insurance Fund	210,998
From Underground Storage Tank Regulation Program Fund.	4,651
From Chemical Emergency Preparedness Fund.	9,476
From Motor Vehicle Commission Fund	14,902
From Health Spa Regulatory Fund.	41
From State Forensic Laboratory Fund.	2,395
From Services to Victims' Fund	27,245
From Natural Resources Protection Fund-Air Pollution Permit Fee Subaccount	128,119

From Missouri Main Street Program Fund	484
From Health Professional Student Loan and Loan Repayment Program Fund	124
From Missouri Job Development Fund	54,828
From Children's Service Commission Fund.	9
From Attorney General's Court Costs Fund	579
From Missouri Breeders Fund.	39
From Public Service Commission Fund.. . . .	247,942
From Apple Merchandising Fund.	35
From Department of Revenue Information Fund.	24,825
From Department of Social Services Educational Improvement Fund.. . . .	86,891
From Tort Victims Compensation Fund.	1,018
From Livestock Dealer Law Enforcement and Administration Fund.	51
From Healthy Families Trust Fund	2,513,684
From Board of Accountancy Fund	8,595
From Board of Barber Examiners Fund.. . . .	1,667
From Board of Podiatric Medicine Fund.	203
From Board of Chiropractic Examination Fund.	4,494
From Merchandising Practices Revolving Fund.	22,752
From Board of Cosmetology Fund	8,716
From Board of Embalmers and Funeral Directors Fund	2,437
From Board of Registration for Healing Arts Fund	52,705
From Board of Nursing Fund	66,171
From Board of Optometry Fund	1,102
From Board of Pharmacy Fund.	21,185
From Missouri Real Estate Commission Fund.	29,285
From Veterinary Medical Board Fund	3,419
From Milk Inspection Fees Fund	15,511
From Department of Health Document Services Fund	741
From Grain Inspection Fees Fund.	34,345
From Petition Audit Revolving Trust Fund	2,867
From Tourism Marketing Fund.	13
From Workers' Compensation Fund.	181,213
From Second Injury Fund.	396,522
From Department of Health-Donated Fund	13,758
From Railroad Expense Fund	10,713
From Groundwater Protection Fund	9,838
From Petroleum Inspection Fund	43,468
From Infrastructure Development Fund	4,626
From Attorney General's Antitrust Fund	4,631
From Energy Set-Aside Program Fund	35,794
From State Land Survey Program Fund.. . . .	27,291
From Petroleum Violation Escrow Fund	61,460
From Legal Defense and Defender Fund	10,341
From Criminal Record System Fund	26,252
From Committee on Professional Counselors Fund	4,088
From Highway Patrol Academy Fund	4,423
From Hazardous Waste Fund.	43,463
From Dental Board Fund	10,948
From State Board of Architects, Engineers, and Land Surveyors Fund	16,965
From Safe Drinking Water Fund.	47,938
From Missouri Office of Prosecution Services Fund.	2,952
From Crime Victims' Compensation Fund.	54,023

From Marketing Development Fund.	7,232
From Coal Mine Land Reclamation Fund	1,754
From State Elections Subsidy Fund.	4,645
From Professional Registration Fees Fund	68,753
From Hazardous Waste Remedial Fund	37,946
From Missouri Air Pollution Control Fund	7,889
From State Legal Expense Fund.	21,065
From Athletic Fund	1,218
From Children's Trust Fund	31,339
From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund.. . . .	55,864
From Meramac-Onondaga State Parks Fund	672
From Proceeds of Surplus Property Sales Fund	12,400
From ADA Compliance Fund	4,316
From Confederate Memorial Park Fund.	47
From Marital and Family Therapists Fund.	226
From Library Networking Fund	3,315
From Organ Donor Program Fund.. . . .	4,023
From Child Labor Enforcement Fund.. . . .	854
From Inmate Incarceration Reimbursement Act Revolving Fund	1,063
From Secretary of State's Investor Education Fund.. . . .	211
From Property Reuse Fund	1,436
From State Court Administration Revolving Fund	117
From Respiratory Care Practitioners Fund	1,624
From Concentrated Animal Feeding Operation Indemnity Fund.	225
From State Document Preservation Fund.	49
From Light Rail Safety Fund.	116
From Student Grant Fund.	60,623
From Academic Scholarship Fund	55,558
From State Transportation Assistance Revolving Fund.. . . .	5,528
From Criminal Justice Network and Technology Revolving Fund.. . . .	12,810
From Missouri Office of Prosecution Services Revolving Fund.	863
From Missouri Board of Occupational Therapy Fund	2,739
From Judiciary Education and Training Fund	17,058
From Missouri Supplemental Tax Increment Financing Fund.. . . .	972
From Bridge Scholarship Fund	4
From Domestic Relations Resolution Fund.	1,292
From Correctional Substance Abuse Earnings Fund.	552
From Missouri Wine Marketing and Research Development Fund	97
From Advantage Missouri Trust Fund	14,538
From Dietitian Fund.	579
From Missouri College Guarantee Fund	32,851
From Early Childhood Development, Education and Care Fund.	114,648
From Escheats Fund	9,967
From Abandoned Fund.. . . .	312,629
From Champ W. Smith & Mary C. Smith Memorial Endowment Trust Fund	172
From Interior Designer Council Fund.. . . .	124
From Kids' Chance Scholarship Fund	27
From Massage Therapy Fund.	1,856
From Premium Fund.	2,636
From Missouri Public Broadcasting Corporation Special Fund	2,178
From Fine Collections Center Interest Revolving Fund	62
From Assistive Technology Loan Revolving Fund.	29

From Petroleum Violation Escrow Interest Subaccount Fund	5,156
From World War II Memorial Trust Fund.	66
From Blindness Education, Screening and Treatment Program Fund	701
From Dry-cleaning Environmental Response Trust Fund.	1,289
From Missouri National Guard Trust Fund.	29,366
From Agriculture Development Fund.	3,357
From Alternative Care Trust Fund	81,951
From Missouri State Employees' Voluntary Life Insurance Fund	7,796
From Mined Land Reclamation Fund	7,668
From Babler State Park Fund.	5,308
From Institution Gift Trust Fund	477
From Mental Health Institution Gift Trust Fund	71,548
From Secretary of State-Wolfner State Library Fund	3,447
From Secretary of State Institution Gift Trust Fund.	2,700
From Special Employment Security Fund.	23,156
From Crippled Children Fund.	487
From State Fair Trust Fund	31
From Aviation Trust Fund	43,377
From Pansey Johnson-Travis Memorial State Garden Trust Fund.	17
Total.	<u>\$13,526,928</u>

BILL TOTALS

General Revenue Fund.	\$10,884,112
Federal Funds.	135,351,708
Other Funds.	<u>25,789,207</u>
Total.	<u>\$172,025,027</u>

Approved April 29, 2002

HB 1120 [HCS HB 1120]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: PLANNING, EXPENSES, CAPITAL IMPROVEMENTS INCLUDING MAJOR ADDITIONS AND RENOVATIONS, NEW STRUCTURES, LAND IMPROVEMENTS OR ACQUISITIONS, AND TO TRANSFER MONEY AMONG CERTAIN FUNDS.

AN ACT to appropriate money for planning, expenses, and for capital improvements including but not limited to major additions and renovations, new structures, and land improvements or acquisitions, and to transfer money among certain funds.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the state treasury, for the agency, program, and purpose stated, chargeable to the fund designated for the period beginning July 1, 2002 and ending June 30, 2003, as follows:

SECTION 20.005.— To the Office of Administration
 For the Adjutant General — Missouri National Guard
 For design and construction of a new armory in the Kansas City area
 From Federal Funds. \$5,267,643

SECTION 20.010.— To the Office of Administration
 For the Department of Corrections
 For planning and design of community corrections centers
 The Joint Committee on Corrections shall be notified to review the
 community corrections centers pilot plan and funding source
 prior to design and site location
 From Federal Funds. \$540,000

SECTION 20.015.— To the Board of Public Buildings
 For construction of a new State Public Health Laboratory
 From Proceeds of Revenue Bonds. \$30,000,000

SECTION 20.020.— To the Office of Administration
 For the planning, design and construction of security-related capital
 improvement projects
 From Federal Funds. \$1E

SECTION 20.025.— To the Office of Administration
 For the Division of Design and Construction
 For the repair of state owned or leased facilities which have
 suffered catastrophic damage and which have a notice of coverage
 issued by the commissioner of administration
 From the Facilities Maintenance Reserve Fund. \$1E

BILL TOTALS

General Revenue Fund.	\$0
Federal Funds.	5,807,644
Other Funds.	1
Total.	\$5,807,645

Approved June 26, 2002

HB 1121 [SCS HB 1121]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: EXPENSES, GRANTS, REFUNDS, DISTRIBUTIONS AND OTHER PURPOSES FOR THE SEVERAL DEPARTMENTS OF STATE GOVERNMENT AND THE DIVISIONS AND PROGRAMS THEREOF.

AN ACT to appropriate money for expenses, grants, refunds, distributions and other purposes for the several departments of state government and the divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, from the funds designated herein.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28, of the Constitution of Missouri for the agency, program, and purpose stated, chargeable to the fund designated, for the period beginning July 1, 2002 and ending June 30, 2003 the unexpended balances as of June 30, 2002 but not to exceed the amounts stated herein, as follows:

SECTION 21.005.— To the University of Missouri — Columbia School of Medicine
For the telemedicine program
Representing expenditures originally authorized under the provisions
of House Bill Section 14.005, an Act of the 91st General
Assembly, First Regular Session
From Healthy Families Trust Fund — Health Care Account. \$3,298,890

SECTION 21.010.— To the University of Missouri
For a program of research into Alzheimer's Disease
All Expenditures
Representing expenditures originally authorized under the provisions
of House Bill Section 3.230, an Act of the 91st General Assembly,
First Regular Session
From General Revenue Fund. \$184,908

SECTION 21.015.— To the Office of Administration
For the Division of Accounting
Expense and Equipment
Representing expenditures originally authorized under the provisions
of House Bill Section 5.010, an Act of the 91st General Assembly,
First Regular Session
From General Revenue Fund. \$179,484

SECTION 21.020.— To the Office of Administration
For the Office of Information Technology
For project oversight
Personal Service and/or Expense and Equipment
From Office of Administration Revolving Administrative Trust Fund. \$156,950

For implementation of the Missouri E-Government Initiative
Personal Service and/or Expense and Equipment
From Office of Administration Revolving Administrative Trust Fund. 1,852,404

For the Justice Integration Project
Personal Service. 45,000
Expense and Equipment. 465,815
From Federal Funds. 510,815

Representing expenditures originally authorized under the provisions
of House Bill Section 5.240, an Act of the 91st General Assembly,
First Regular Session
Total. \$2,520,169

SECTION 21.025.— To the Department of Natural Resources
For all expenses related to the Lewis and Clark Bicentennial
Representing expenditures originally authorized under the provisions
of House Bill Section 6.213, an Act of the 91st General Assembly,
First Regular Session
From General Revenue Fund. \$745,376
From Intergovernmental Transfer Fund. 825,000
Total \$1,570,376

SECTION 21.030.— To the Department of Natural Resources
For the Division of State Parks
For the Historic Preservation Program
For the purpose of funding a grant for research and other expenses
associated with the State Capitol book project
Representing expenditures originally authorized under the provisions
of House Bill Section 6.267, an Act of the 91st General Assembly,
First Regular Session
From General Revenue Fund. \$16,750

SECTION 21.035.— To the Department of Natural Resources
For the Division of Environmental Quality
For the state's share of construction grants for wastewater treatment
facilities
Representing expenditures originally authorized under the provisions
of House Bill Section 6.340, an Act of the 91st General Assembly,
First Regular Session
From Water Pollution Control Fund. \$2,306,858

SECTION 21.040.— Funds are to be transferred out of the State
Treasury, chargeable to the Water Pollution Control Fund, to the
Water and Wastewater Loan Fund, and/or the Water and Wastewater
Loan Revolving Fund
Representing expenditures originally authorized under the provisions
of House Bill Section 6.344, an Act of the 91st General Assembly,
First Regular Session
From Water Pollution Control Fund. \$3,183,660

SECTION 21.045.— To the Department of Natural Resources
For the Division of Environmental Quality
For loans for wastewater treatment facilities pursuant to Sections
644.026 - 644.124, RSMo
Representing expenditures originally authorized under the provisions
of House Bill Section 6.345, an Act of the 91st General Assembly,
First Regular Session
From Water and Wastewater Loan Fund and/or Water and Wastewater Loan
Revolving Fund. \$60,000,000

SECTION 21.050.— To the Department of Natural Resources
For the Division of Environmental Quality
For loans for drinking water systems pursuant to Sections
644.026 - 644.124, RSMo

Representing expenditures originally authorized under the provisions
of House Bill Section 6.350, an Act of the 91st General Assembly,
First Regular Session
From General Revenue Fund. \$2,173,379
From Water and Wastewater Loan Fund. 22,000,000
Total \$24,173,379

SECTION 21.055.— To the Department of Natural Resources
For the Division of Environmental Quality
For the Clean Water Commission
For stormwater control grants or loans
Representing expenditures originally authorized under the provisions
of House Bill Section 6.355, an Act of the 91st General Assembly,
First Regular Session
From Stormwater Control Fund. \$14,137,000

SECTION 21.060.— To the Department of Natural Resources
For the Division of Environmental Quality
For rural sewer and water grants and loans
Representing expenditures originally authorized under the provisions
of House Bill Section 6.360, an Act of the 91st General Assembly,
First Regular Session
From Water Pollution Control Fund. \$15,269,027

SECTION 21.065.— To the Department of Natural Resources
For the Division of Environmental Quality
For soil and water conservation cost-share grants
Representing expenditures originally authorized under the provisions
of House Bill Section 6.400, an Act of the 91st General Assembly,
First Regular Session
From Soil and Water Sales Tax Fund. \$11,434,123

SECTION 21.070.— To the Department of Natural Resources
For the Division of Environmental Quality
For a special area land treatment program
Representing expenditures originally authorized under the provisions
of House Bill Section 6.410, an Act of the 91st General Assembly,
First Regular Session
From Soil and Water Sales Tax Fund. \$6,896,200

SECTION 21.075.— To the Department of Natural Resources
For the Division of Environmental Quality
For grants to colleges and universities for research projects on soil
erosion and conservation
Representing expenditures originally authorized under the provisions
of House Bill Section 6.415, an Act of the 91st General Assembly,
First Regular Session
From Soil and Water Sales Tax Fund. \$160,000

SECTION 21.080.— To the Department of Natural Resources

For the Division of Environmental Quality

For implementation provisions of Solid Waste Management Law in
accordance with Sections 260.250, RSMo, through 260.345, RSMo,
and Section 260.432, RSMoRepresenting expenditures originally authorized under the provisions
of House Bill Section 6.425, an Act of the 91st General Assembly,
First Regular Session

From Solid Waste Management Fund. \$6,300,000

From Solid Waste Management Fund — Scrap Tire Subaccount 1,637,000Total \$7,937,000**SECTION 21.085.**— To the Department of Economic Development

For the Division of Community Development

For the Delta Regional Authority

Representing expenditures originally authorized under the provisions
of House Bill Section 1115.065, an Act of the 91st General
Assembly, Second Regular Session

From General Revenue Fund \$120,000

SECTION 21.090.— To the Department of Economic Development

For a research park at Ft. Leonard Wood

From General Revenue Fund \$970,000

For the Business Extension Service Team Program

From Business Extension Service Team Fund.. . . . 1,130,000Representing expenditures originally authorized under the provisions
of House Bill Section 7.020, an Act of the 91st General Assembly,
First Regular Session

Total \$2,100,000

SECTION 21.095.— To the Department of Economic DevelopmentFor funding new and expanding industry training programs and basic
industry retraining programsRepresenting expenditures originally authorized under the provisions
of House Bill Section 7.045, an Act of the 91st General Assembly,
First Regular Session

From Missouri Job Development Fund.. . . . \$11,593,678

SECTION 21.100.— To the Department of Economic DevelopmentFunds are to be transferred out of the State Treasury, chargeable to
the General Revenue Fund to the Missouri Supplemental Tax
Increment Financing FundRepresenting expenditures originally authorized under the provisions
of House Bill Section 7.055, an Act of the 91st General Assembly,
First Regular Session

From General Revenue Fund.. . . . \$2,354,540

SECTION 21.105.— To the Department of Economic Development
For Missouri supplemental tax increment financing as provided in
Section 99.845, RSMo. This appropriation may be used for the
following projects: Kansas City Midtown, Excelsior Springs Elms
Hotel, Independence Santa Fe Trail Neighborhood, St. Louis City
Convention Hotel, and Cupples Station. In accordance with
Section 99.845, RSMo, the appropriation shall not be made unless
the applications for the projects have been approved by the
Director of the Department of Economic Development and the
Commissioner of the Office of Administration
Representing expenditures originally authorized under the provisions
of House Bill Section 7.060, an Act of the 91st General Assembly,
First Regular Session
From Missouri Supplemental Tax Increment Financing Fund. \$2,354,540

SECTION 21.110.— To the Department of Economic Development
For the purchase and renovation of buildings, land, and erection of
buildings
Representing expenditures originally authorized under the provisions
of House Bill Section 7.120, an Act of the 91st General Assembly,
First Regular Session
From Special Employment Security Fund. \$196,660

SECTION 21.115.— To the Department of Economic Development
For the Division of Tourism to include coordination of advertising of
at least \$70,000 for the Missouri State Fair
Expense and Equipment
Representing expenditures originally authorized under the provisions
of House Bill Section 7.125, an Act of the 91st General Assembly,
First Regular Session
From Division of Tourism Supplemental Revenue Fund. \$11,368,818

SECTION 21.120.— To the Department of Public Safety
For the State Highway Patrol
For the Enforcement Program
Expense and Equipment
Representing expenditures originally authorized under the provisions
of House Bill Section 8.125, an Act of the 91st General Assembly,
First Regular Session
From Federal Funds. \$508,000

SECTION 21.125.— To the Department of Public Safety
For the Missouri Veterans' Commission
For Administration and Service to Veterans
Expense and Equipment
Representing expenditures originally authorized under the provisions
of House Bill Section 8.215, an Act of the 91st General Assembly,
First Regular Session
From Veterans' Commission Capital Improvement Trust Fund. \$2,000,000

SECTION 21.130.— To the Adjutant General

For the World War II Veterans' Recognition Program

Expense and Equipment

Representing expenditures originally authorized under the provisions
of House Bill Section 8.265, an Act of the 91st General Assembly,

First Regular Session

From Veterans' Commission Capital Improvement Trust Fund. \$2,510,033

SECTION 21.142.— To the Department of Health and Senior Services

For the Missouri Senior Rx Program

Professional Services. \$1,703,384

Expense and Equipment. 211,909From Missouri Senior Rx Fund 1,915,293If the enrollment fee collections exceed the originally
projected enrollment revenues, the Commission shall be
authorized to spend from such collections to cover the cost of
third party administration

Expense and Equipment

From Missouri Senior Rx Fund. 750,000Representing expenditures originally authorized under the provisions
of House Bill Section 15.165, an Act of the 91st General

Assembly, Second Regular Session

Total. \$2,665,293

SECTION 21.145.— To the Department of Social Services

For the Division of Family Services

For the purpose of funding one-time costs for training and technology
upgrades for Child Welfare servicesRepresenting expenditures originally authorized under the provisions
of House Bill Section 11.105, an Act of the 91st General

Assembly, First Regular Session

From Intergovernmental Transfer Fund. \$2,883,371

From Federal Funds. 473,525Total. \$3,356,896**SECTION 21.150.**— To the Department of Social Services

For the Division of Family Services

For the purpose of payments to accredited child care providers pursuant to

Chapter 313, RSMo.. . . . \$2,283,956

For early childhood start-up and expansion grants pursuant to

Chapter 313, RSMo 1,609,580

For certificates to low-income, at-home families pursuant to

Chapter 313, RSMo 1,801,592Representing expenditures originally authorized under the provisions
of House Bill Section 11.145, an Act of the 91st General

Assembly, First Regular Session

From Early Childhood Development, Education and Care Fund \$5,695,128

SECTION 21.155.— To the Department of Social Services

For the Division of Medical Services

For administrative services

Expense and Equipment

Representing expenditures originally authorized under the provisions

of House Bill Section 11.400, an Act of the 91st General

Assembly, First Regular Session

From Federal Funds. \$2,625,000

From Intergovernmental Transfer Fund. 875,000

Total \$ 3,500,000

SECTION 21.160.— To the Department of Social Services

For community grants to improve early child care opportunities. \$901,690

For funding improvement to the quality of early childhood and youth

development care and education. It is designed to bridge the gap and

calls for coordination with Head Start, Parents As Teachers, and Early

Head Start and other such programs. These grants will be awarded to

communities to target "at-risk" and minorities populations. A contracting

relationship shall be established with a community based not-for-profit

organization to help identify families in the six-county area that have

children ages three to five that need more intensive support. Said

community based not-for-profit shall be exempt from taxation pursuant to

Section 501 (c)(3) of the Internal Revenue Code, chartered by a national

body, certified as an MBE corporation, and based in the target area served.

Funding shall accurately reflect additional transportation costs involved in

identifying targeted families for recruitment who live in sparsely

populated rural communities in the six-county area being served 243,700

For the Early Head Start Program. 1,584,050

Representing expenditures originally authorized under the

provisions of House Bill Section 14.010, an Act of the 91st

General Assembly, First Regular Session

From Healthy Families Trust Fund — Early Child Care Account \$2,729,440

SECTION 21.165.— To the Secretary of State

For local records preservation grants

Representing expenditures originally authorized under the provisions

of House Bill Section 12.075, an Act of the 91st General

Assembly, First Regular Session

From Local Records Preservation Fund. \$306,802

BILL TOTALS

General Revenue Fund. \$6,744,437

Federal Funds. 4,117,340

Other Funds. 195,765,875

Total. \$206,627,652

Approved June 26, 2002

HB 1032 [HB 1032]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires one of the seven members of the State Board of Health to be a chiropractic physician.

AN ACT to repeal section 191.400, RSMo, and to enact in lieu thereof one new section relating to the state board of health.

SECTION

A. Enacting clause.

191.400. State board of health — appointment — terms — qualifications — limitation on other employment, exception — vacancies — compensation — meetings.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 191.400, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 191.400, to read as follows:

191.400. STATE BOARD OF HEALTH — APPOINTMENT — TERMS — QUALIFICATIONS — LIMITATION ON OTHER EMPLOYMENT, EXCEPTION — VACANCIES — COMPENSATION — MEETINGS. — 1. There is hereby created a "State Board of Health" which shall consist of seven members, who shall be appointed by the governor, by and with the advice and consent of the senate. No member of the state board of health shall hold any other office or employment under the state of Missouri other than in a consulting status relevant to the member's professional status, licensure or designation. Not more than four of the members of the state board of health shall be from the same political party.

2. Each member shall be appointed for a term of four years; except that of the members first appointed, two shall be appointed for a term of one year, two for a term of two years, two for a term of three years, and one for a term of four years. The successors of each shall be appointed for full terms of four years. No person may serve on the state board of health for more than two terms. The terms of all members shall continue until their successors have been duly appointed and qualified. Three of the persons appointed to the state board of health shall be persons who are physicians and surgeons licensed by the state board of registration for the healing arts of Missouri. One of the persons appointed to the state board of health shall be a dentist licensed by the Missouri dental board. [Three] **One of the persons appointed to the state board of health shall be a chiropractic physician licensed by the Missouri state board of chiropractic examiners.** Two of the persons appointed to the state board of health shall be persons other than those licensed by the state board of registration for the healing arts [or], the Missouri dental board, **or the Missouri state board of chiropractic examiners** and shall be representative of those persons, professions and businesses which are regulated and supervised by the department of health and senior services and the state board of health. If a vacancy occurs in the appointed membership, the governor may appoint a member for the remaining portion of the unexpired term created by the vacancy. If the vacancy occurs while the senate is not in session, the governor shall make a temporary appointment subject to the approval of the senate when it next convenes. The members shall receive actual and necessary expenses plus twenty-five dollars per day for each day of actual attendance.

3. The board shall elect from among its membership a [chairman] **chairperson** and a vice [chairman] **chairperson**, who shall act as [chairman] **chairperson** in his **or her** absence. The

board shall meet at the call of the [chairman] **chairperson**. The [chairman] **chairperson** may call meetings at such times as he **or she** deems advisable, and shall call a meeting when requested to do so by three or more members of the board.

Approved July 2, 2002

HB 1037 [CCS SCS HS HCS HB 1037, 1188, 1074 & 1271]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Eliminates statute of limitations for forcible rape and sodomy.

AN ACT to repeal section 556.036, RSMo, and to enact in lieu thereof one new section relating to statute of limitations for sexual offenses, with penalty provisions and an emergency clause.

SECTION

- A. Enacting clause.
- 556.036. Time limitations.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 556.036, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 556.036, to read as follows:

556.036. TIME LIMITATIONS. — 1. A prosecution for murder, **forcible rape, attempted forcible rape, forcible sodomy, attempted forcible sodomy**, or any class A felony may be commenced at any time.

2. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the following periods of limitation:

- (1) For any felony, three years;
- (2) For any misdemeanor, one year;
- (3) For any infraction, six months.

3. If the period prescribed in subsection 2 **of this section** has expired, a prosecution may nevertheless be commenced for:

(1) Any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself or herself not a party to the offense, but in no case shall this provision extend the period of limitation by more than three years. As used in this subdivision, the term "person who has a legal duty to represent an aggrieved party" shall mean the attorney general or the prosecuting or circuit attorney having jurisdiction pursuant to section 407.553, RSMo, for purposes of offenses committed pursuant to sections 407.511 to 407.556, RSMo; and

(2) Any offense based upon misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation by more than three years; and

(3) Any offense based upon an intentional and willful fraudulent claim of child support arrearage to a public servant in the performance of his or her duties within one year after

discovery of the offense, but in no case shall this provision extend the period of limitation by more than three years.

4. An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

5. A prosecution is commenced either when an indictment is found or an information filed.

6. The period of limitation does not run:

(1) During any time when the accused is absent from the state, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; or

(2) During any time when the accused is concealing himself from justice either within or without this state; or

(3) During any time when a prosecution against the accused for the offense is pending in this state; or

(4) During any time when the accused is found to lack mental fitness to proceed pursuant to section 552.020, RSMo.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to revise the statute of limitations for certain sexual offenses, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved March 6, 2002

HB 1041 [SS SCS HB 1041]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Expands purposes for which certain local tourism taxes can be used.

AN ACT to repeal sections 67.1360, 92.327, 92.336, 94.875, 407.610 and 620.467, RSMo, relating to tourism, and to enact in lieu thereof twenty new sections relating to the same subject, with an emergency clause for a certain section.

SECTION

- A. Enacting clause.
- 67.1360. Transient guests to pay tax for funding the promotion of tourism, certain cities and counties, vote required.
- 67.1800. Definitions.
- 67.1802. District boundaries.
- 67.1804. Regional taxicab commission established, powers.
- 67.1806. Membership of commission, appointments.
- 67.1808. Powers of the commission.
- 67.1810. Duties of the commission — expenditures limited to fees collected.
- 67.1812. Taxicab code promulgated, procedure.
- 67.1814. Airport taxicabs, limitation on regulation by the commission.
- 67.1816. City and county ordinances in effect until taxicab code adopted.
- 67.1818. Licensure, taxicab code to include administrative procedures.
- 67.1820. Commission to establish annual budget to enforce taxicab code.
- 67.1822. Annual report submitted by commission to CEOs of city and county — CPA appointed by city and county for the commission.

- 67.1958. Modification of requirements by vote of the district.
- 92.327. Convention and tourism tax, submitted to voters — rate of tax, deposit in convention tourism fund, purpose.
- 92.336. Revenue received from tax, distribution, requirements — neighborhood tourist development fund established, purpose.
- 94.875. Tourism tax trust fund established, purpose — taxes to be deposited in fund — distribution — election required to impose tax.
- 311.481. Sunday liquor sales for airline clubs.
- 407.610. Promotion program, notice to attorney general, requirements — unlawful practices — failure to comply, penalty.
- 620.467. Division of tourism supplemental revenue fund created — use of fund — lapse to general revenue prohibited — funding — effective and expiration dates.
 - B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 67.1360, 92.327, 92.336, 94.875, 407.610 and 620.467, RSMo, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 67.1360, 67.1800, 67.1802, 67.1804, 67.1806, 67.1808, 67.1810, 67.1812, 67.1814, 67.1816, 67.1818, 67.1820, 67.1822, 67.1958, 92.327, 92.336, 94.875, 311.481, 407.610 and 620.467, to read as follows:

67.1360. TRANSIENT GUESTS TO PAY TAX FOR FUNDING THE PROMOTION OF TOURISM, CERTAIN CITIES AND COUNTIES, VOTE REQUIRED. — The governing body of:

(1) A city with a population of more than seven thousand and less than seven thousand five hundred;

(2) A county with a population of over nine thousand six hundred and less than twelve thousand which has a total assessed valuation of at least sixty-three million dollars, if the county submits the issue to the voters of such county prior to January 1, 2003;

(3) A third class city which is the county seat of a county of the third classification without a township form of government with a population of at least twenty-five thousand but not more than thirty thousand inhabitants;

(4) Any fourth class city having, according to the last federal decennial census, a population of more than one thousand eight hundred fifty inhabitants but less than one thousand nine hundred fifty inhabitants in a county of the first classification with a charter form of government and having a population of greater than six hundred thousand but less than nine hundred thousand inhabitants;

(5) Any city having a population of more than three thousand but less than eight thousand inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(6) Any city having a population of less than two hundred fifty inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(7) Any fourth class city having a population of more than two thousand five hundred but less than three thousand inhabitants in a county of the third classification having a population of more than twenty-five thousand but less than twenty-seven thousand inhabitants;

(8) Any third class city with a population of more than three thousand two hundred but less than three thousand three hundred located in a county of the third classification having a population of more than thirty-five thousand but less than thirty-six thousand;

(9) Any county of the second classification without a township form of government and a population of less than thirty thousand;

(10) Any city of the fourth class in a county of the second classification without a township form of government and a population of less than thirty thousand;

(11) Any county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(12) Any city of the fourth class with a population of more than one thousand eight hundred but less than two thousand in a county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(13) Any city of the third class with a population of more than seven thousand two hundred but less than seven thousand five hundred within a county of the third classification with a population of more than twenty-one thousand but less than twenty-three thousand;

(14) Any fourth class city having a population of more than two thousand eight hundred but less than three thousand one hundred inhabitants in a county of the third classification with a township form of government having a population of more than eight thousand four hundred but less than nine thousand inhabitants;

(15) Any fourth class city with a population of more than four hundred seventy but less than five hundred twenty inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(16) Any third class city with a population of more than three thousand eight hundred but less than four thousand inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(17) Any fourth class city with a population of more than four thousand three hundred but less than four thousand five hundred inhabitants located in a county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(18) Any fourth class city with a population of more than two thousand four hundred but less than two thousand six hundred inhabitants located in a county of the first classification without a charter form of government with a population of more than fifty-five thousand but less than sixty thousand inhabitants;

(19) Any fourth class city with a population of more than two thousand five hundred but less than two thousand six hundred inhabitants located in a county of the third classification with a population of more than nineteen thousand one hundred but less than nineteen thousand two hundred inhabitants;

(20) Any county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants; [or]

(21) Any county of the second classification with a population of more than forty-four thousand but less than fifty thousand inhabitants;

(22) Any third class city with a population of more than nine thousand five hundred but less than nine thousand seven hundred inhabitants located in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants; or

(23) Any third class city with a population of more than nineteen thousand nine hundred but less than twenty thousand in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels, motels, bed and breakfast inns and campgrounds and any docking facility which rents slips to recreational boats which are used by transients for sleeping, which shall be at least two percent, but not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general, primary or special election, a proposal to authorize the governing body of the city or county to impose a tax pursuant to the provisions of this section and section 67.1362. The tax authorized by this section and section 67.1362 shall be in addition to any charge paid to the owner or operator and shall be in addition to any and all taxes imposed by law

and the proceeds of such tax shall be used by the city or county solely for funding the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

67.1800. DEFINITIONS. — As used in sections 67.1800 to 67.1822, the following terms mean:

(1) "Airport authority", an entity established by city ordinance regarding governance of the airport with representatives appointed by the chief executives of the city, county, and other approximate counties within the region;

(2) "Airport", Lambert-St. Louis International Airport and any other airport located within the district and designated by a chief executive;

(3) "Airport taxicab", a taxicab which picks up passengers for hire at the airport, transports them to places they designate by no regular specific route, and the charge is made on the basis of distance traveled as indicated by the taximeter;

(4) "Chief executive", the mayor of the city and the county executive of the county;

(5) "City", a city not within a county;

(6) "Commission", the regional taxicab commission created in section 67.1804;

(7) "County", a county with a charter form of government and with more than one million inhabitants;

(8) "District", the geographical area encompassed by the regional taxicab commission;

(9) "Driver", an individual operator of a motor vehicle and may be an employee or independent contractor;

(10) "Hotel and restaurant industry", the group of enterprises actively engaged in the business of operating lodging and dining facilities for transient guests;

(11) "Municipality", a city, town, or village which has been incorporated in accordance with the laws of the state of Missouri;

(12) "On-call/reserve taxicab", any motor vehicle or nonmotorized carriage engaged in the business of carrying persons for hire on the streets of the district, whether the same is hailed on the streets by a passenger or is operated from a street stand, from a garage on a regular route, or between fixed termini on a schedule, and where no regular or specific route is traveled, passengers are taken to and from such places as they designate, and the charge is made on the basis of distance traveled as indicated by a taximeter;

(13) "Premium sedan", any motor vehicle engaged in the business of carrying persons for hire on the streets of the district which seats a total of five or less passengers in addition to a driver and which carries in each vehicle a manifest or trip ticket containing the name and pickup address of the passenger or passengers who have arranged for the use of the vehicle, and the charge is a prearranged fixed contract price quoted for transportation between termini selected by the passenger;

(14) "Taxicab", airport taxicabs, on-call/reserve taxicabs and premium sedans referred to collectively as taxicabs;

(15) "Taxicab company", the use of one or more taxicabs operated as a business carrying persons for hire;

(16) "Taximeter", a meter instrument or device attached to an on-call taxicab or airport taxicab which measures mechanically or electronically the distance driven and the waiting time upon which the fare is based.

67.1802. DISTRICT BOUNDARIES. — There is hereby established a "Regional Taxicab District", with boundaries which shall encompass any city not within a county and any county with a charter form of government and with more than one million inhabitants, including all incorporated municipalities located within such county.

67.1804. REGIONAL TAXICAB COMMISSION ESTABLISHED, POWERS. — For the regional taxicab district, there is hereby established a "Regional Taxicab Commission", which shall be a body politic and corporate vested with all the powers expressly granted to it herein and created for the public purposes of recognizing taxicab service as a public transportation system, improving the quality of the system, and exercising primary authority over the provision of licensing, control and regulations of taxicab services within the district.

67.1806. MEMBERSHIP OF COMMISSION, APPOINTMENTS. — 1. The regional taxicab commission shall consist of a chairperson plus eight members, four of whom shall be appointed by the chief executive of the city with approval of the board of aldermen, and four of whom shall be appointed by the chief executive of the county with approval of the governing body of the county. Of the eight members first appointed, one city appointee and one county appointee shall be appointed to a four-year term, two city appointees and two county appointees shall be appointed to a three-year term, and one city appointee and one county appointee shall be appointed to a one-year term. Members appointed after the expiration of these initial terms shall serve a four-year term. The chief executive officer of the city and the chief executive officer of the county shall alternately appoint a chairperson who shall serve a term of three years. The respective chief executive who appoints the members of the commission shall appoint members to fill unexpired terms resulting from any vacancy of a person appointed by that chief executive. All members and the chairperson must reside within the district while serving as a member. All members shall serve without compensation. Nothing shall prohibit a representative of the taxicab industry from being chairperson.

2. In making the eight appointments set forth in subsection 1 of this section, the chief executive officer of the city and the chief executive officer of the county shall collectively select four representatives of the taxicab industry. Such four representatives of the taxicab industry shall include at least one from each of the following:

- (1) An owner or designated assignee of a taxicab company which holds at least one but no more than one hundred taxicab licenses;
- (2) An owner or designated assignee of a taxicab company which holds at least one hundred one taxicab licenses or more;
- (3) A taxicab driver, excluding any employee or independent contractor of a company currently represented on the commission.

The remaining five commission members shall be designated "at large" and shall not be a representative of the taxicab industry or be the spouse of any such person nor be an individual who has a direct material or financial interest in such industry. If any representative of the taxicab industry resigns or is otherwise unable to serve out the term for which such representative was appointed, a similarly situated representative of the taxicab industry shall be appointed to complete the specified term.

67.1808. POWERS OF THE COMMISSION. — The regional taxicab commission is empowered to:

- (1) Develop and implement plans, policies, and programs to improve the quality of taxicab service within the district;
- (2) Cooperate and collaborate with the hotel and restaurant industry to:
 - (a) Restrict the activities of those doormen employed by hotels and restaurants who accept payment from taxicab drivers or taxicab companies in exchange for the doormen's assistance in obtaining passengers for such taxicab drivers and companies; and
 - (b) Obtain the adherence of hotel shuttle vehicles to the requirement that they operate solely on scheduled trips between fixed termini and shall have authority to create guidelines for hotel and commercial shuttles;

(3) Cooperate and collaborate with other governmental entities, including the government of the United States, this state, and political subdivisions of this and other states;

(4) Cooperate and collaborate with governmental entities whose boundaries adjoin those of the district to assure that any taxicab or taxicab company neither licensed by the commission nor officed within its boundaries shall nonetheless be subject to those aspects of the taxicab code applicable to taxicabs operating within the district's boundaries;

(5) Contract with any public or private agency, individual, partnership, association, corporation or other entity, consistent with law, for the provision of services necessary to improve the quality of taxicab service within the district;

(6) Accept grants and donations from public or private entities for the purpose of improving the quality of taxicab service within the district;

(7) Execute contracts, sue, and be sued;

(8) Adopt a taxicab code to license and regulate taxicab companies and individual taxicabs within the district consistent with existing ordinances, and to provide for the enforcement of such code for the purpose of improving the quality of taxicab service within the district;

(9) Collect reasonable fees in an amount sufficient to fund the commission's licensing, regulatory, inspection, and enforcement functions; except that, for the first year after the regional taxicab commission's taxicab code becomes effective, any increase in fees shall not exceed twenty percent of the total fees collected and for subsequent years, the fees may be adjusted annually based on the rate of inflation according to the Consumer Price Index; and

(10) Establish accounts with appropriate banking institutions, borrow money, buy, sell, or lease property for the necessary functions of the commission.

67.1810. DUTIES OF THE COMMISSION — EXPENDITURES LIMITED TO FEES COLLECTED.

— 1. To implement internally the powers which it has been granted, the commission shall:

(1) Elect its own vice chair, secretary, and such other officers as it deems necessary, make such rules as are necessary and consistent with the commission's powers;

(2) Provide for the expenditure of funds necessary for the proper administration of the commission's assigned duties;

(3) Convene monthly meetings of the entire commission or more often if deemed necessary by the commission members;

(4) Make decisions by affirmative vote of the majority of the commission; provided that each of the commissioners, including the chairperson, shall be entitled to one vote on each matter presented for vote and provided further that at least two city appointees and two county appointees, excluding the chairperson, must be included in each majority vote of the commission.

2. The commission shall not exceed or expend moneys in excess of any fees collected and any moneys provided to the commission pursuant to section 67.1820.

67.1812. TAXICAB CODE PROMULGATED, PROCEDURE. — Following the appointment of the commissioners, the regional taxicab commission shall meet for the purpose of establishing and adopting a district-wide taxicab code. In promulgating the taxicab code, the commission shall seek, to the extent reasonably practical, to preserve within the code provisions similar to those contained in chapter 8.98 of the city's municipal ordinance and chapter 806 of the county ordinances, both relating to taxicab issues such as licensing, regulation, inspection, and enforcement while avoiding unnecessary overlaps or inconsistencies between the ordinances. The commission shall present a draft of its district-wide taxicab code at public hearings, one of which will be held in the city and another in the county, following prior public notice of same. Notice of the public hearing

shall be given by publication at least twice, the first publication to be not more than thirty days and the second publication to be not more than ten days prior to each hearing in a newspaper of general circulation in the city and county. The commission shall adopt its taxicab code no later than one hundred eighty days after the appointment of the initial commission members. The commission shall have the power to amend the taxicab code from time to time following the initial adoption without the requirement of public notice or hearings.

67.1814. AIRPORT TAXICABS, LIMITATION ON REGULATION BY THE COMMISSION. — The commission shall further seek the input of the city, county, and airport authority generally regarding the taxicab code and, in particularly with reference to airport taxicabs, shall seek to ensure:

(1) Continuous, smooth airport service during any transition period from the current city and county operation to the new regional taxicab commission;

(2) The need of the airport authority to provide services at the airport's passenger terminals; and

(3) Airport authority involvement as to the servicing of the airport by airport taxicabs.

The commission shall not regulate the airport or airport taxicabs as to cab parking, circulation, cab stands, or passenger loading at the airport, or the payment by airport taxicabs for use of the airport or its facilities.

67.1816. CITY AND COUNTY ORDINANCES IN EFFECT UNTIL TAXICAB CODE ADOPTED. — The city and county's ordinances relating to taxicabs shall remain in full force and effect and be enforced as such by the city and county until one hundred twenty days after the regional taxicab commission adopts its taxicab code, at which time such city and county ordinances shall be deemed to be rescinded as well as ordinances adopted by municipalities within the county. Upon the effective date of the taxicab code:

(1) All licensing, regulations, inspections, inspections of taxicabs, and enforcement of the taxicab code shall rest exclusively with the regional taxicab commission;

(2) All taxicabs subject to the taxicab code shall be required to comply fully with the taxicab code, notwithstanding any previously issued licenses or certificates of convenience;

(3) All permits valid and effective as of August 28, 2002, shall remain valid and effective until the date of expiration or renewal of such permit; and

(4) All available taxicab licensing, inspection, and related fees previously collected and remaining unspent by other jurisdictions shall be immediately paid over the regional taxicab commission for its future use in administering the taxicab code.

The provisions of this section notwithstanding, existing municipal regulations relating to taxicab curb locations and curb fees as well as local business licenses which do not seek to regulate taxicab use shall not be preempted by the taxicab code except by agreement between the commission and applicable municipality.

67.1818. LICENSURE, TAXICAB CODE TO INCLUDE ADMINISTRATIVE PROCEDURES. — The commission shall establish as part of the taxicab code its own internal, administrative procedure for decisions involving the granting, denying, suspending, or revoking of licenses. The commission shall study and take into account rate and fee structures as well as the number of existing taxicab licenses within the district in considering new applications for such licenses. The internal procedures set forth in the taxicab code shall allow appeals from license-related decisions to be conducted by independent hearing officers.

67.1820. COMMISSION TO ESTABLISH ANNUAL BUDGET TO ENFORCE TAXICAB CODE. — The regional taxicab commission shall initially establish, subject to public hearings

thereon, an annual fee-generated budget required for the effective implementation and enforcement of the taxicab code, taking into account staffing requirements and related expenses as well as all revenue sources, including collection of fees previously paid to and unspent by other enforcing jurisdictions and future fees projected to be collected by the commission. Recognizing the elimination of duties and costs associated with the regulatory and enforcement functions of taxicab administration previously borne by the city and county and being assumed by the commission, the city and county shall have the authority to appropriate additional budgetary funding for the commission's needs.

67.1822. ANNUAL REPORT SUBMITTED BY COMMISSION TO CEOs OF CITY AND COUNTY — CPA APPOINTED BY CITY AND COUNTY FOR THE COMMISSION. — 1. Before the second Monday in April of each year, the regional taxicab commission shall make an annual report to the chief executive officers and to the governing bodies of the city and county stating the conditions of the commission as of the first day of January of that year, and the sums of money received and distributed by it during the preceding calendar year.

2. Before the close of the regional taxicab commission's first fiscal year and at the close of each fiscal year thereafter, the chief executives of the city and the county shall appoint one or more certified public accountants who shall annually examine the books, papers, documents, accounts, and vouchers of the commission, and who shall report thereon to the chief executives of the city and the county and to the regional taxicab commission. The commission shall produce and submit for examination all books, papers, documents, accounts, and vouchers, and shall in every way assist such certified public accountants in the performance of their duties pursuant to this section.

67.1958. MODIFICATION OF REQUIREMENTS BY VOTE OF THE DISTRICT. — A tourism community enhancement district may modify the requirements of sections 67.1956 and 67.1968 by an affirmative vote of the qualified voters of such district provided any such modifications are placed upon and approved by the qualified voters, on the same ballot as the sales tax provided in section 67.1959.

92.327. CONVENTION AND TOURISM TAX, SUBMITTED TO VOTERS — RATE OF TAX, DEPOSIT IN CONVENTION TOURISM FUND, PURPOSE. — 1. Any city may submit a proposition to the voters of such city:

(1) A tax not to exceed [six] **seven** and one-half percent of the amount of sales or charges for all sleeping rooms paid by the transient guests of hotels, motels and tourist courts situated within the city involved, and doing business within such city (excluding sales tax); and

(2) A tax not to exceed [one and three-fourths] **two** percent of the gross receipts derived from the retail sales of food by every person operating a food establishment.

2. Such taxes shall be known as the "convention and tourism tax" and when collected shall be deposited by the city treasurer in a separate fund to be known as the "Convention and Tourism Fund". The governing body of the city shall appropriate from the convention and tourism fund as provided in sections 92.325 to 92.340.

92.336. REVENUE RECEIVED FROM TAX, DISTRIBUTION, REQUIREMENTS — NEIGHBORHOOD TOURIST DEVELOPMENT FUND ESTABLISHED, PURPOSE. — The revenues received from the tax authorized under sections 92.325 to 92.340 shall be used exclusively for the advertising and promotion of convention and tourism business **and international trade** for the city from which it is collected, subject to the following requirements:

(1) Not less than forty percent of the proceeds of any tax imposed pursuant to subdivision (1) of section 92.327 shall be appropriated and paid to a general not for profit organization, with whom the city has contracted, and which is incorporated in the state of Missouri and located within the city limits of such city, established for the purpose of promoting such city as a

convention, visitors and tourist center with the balance to be used for operating expenses and capital expenditures, including debt service, for sports, convention, exhibition, trade and tourism facilities located within the city limits of the city;

(2) Not less than ten percent of the proceeds of any tax imposed pursuant to subdivision (1) of section 92.327 shall be appropriated to a fund that hereby shall be established and called the "Neighborhood Tourist Development Fund". Such moneys from said funds shall be paid to not-for-profit neighborhood organizations with whom the city has contracted, and which are incorporated in the state of Missouri and located within the city limits of such city established for the purpose of promoting such neighborhood through cultural, social, ethnic, historic, educational, and recreational activities in conjunction with promoting such city as [a] **an international trade**, convention, visitors and tourist center;

(3) The proceeds of any tax imposed pursuant to subdivision (2) of section 92.327 shall be used by the city only for capital expenditures, including debt service, for sports, convention, exhibition, trade and tourism facilities located within the city limits of the city.

94.875. TOURISM TAX TRUST FUND ESTABLISHED, PURPOSE — TAXES TO BE DEPOSITED IN FUND — DISTRIBUTION — ELECTION REQUIRED TO IMPOSE TAX. — All taxes authorized and collected under sections 94.870 to 94.881 shall be deposited by the political subdivision in a special trust fund to be known as the "Tourism Tax Trust Fund". The moneys in such tourism tax trust fund shall not be commingled with any other funds of the political subdivision **except as specifically provided herein**. The taxes collected shall be used, upon appropriation by the political subdivision, solely for the purpose of constructing, maintaining, or operating convention and tourism facilities, and at least twenty-five percent of such taxes collected shall be used for tourism marketing and promotional purposes; **except that in any city with a population of less than one thousand five hundred inhabitants, forty percent of such taxes collected may be transferred to such city's general revenue fund and the remaining thirty-five percent may be used for city capital improvements, pursuant to voter approval**. The moneys in the tourism tax trust fund of any city with a population of at least fifteen thousand located partially but not wholly within a county of the third classification with a population of at least thirty-nine thousand inhabitants shall be used solely for tourism marketing and promotional purposes. The tax authorized by section 94.870 shall be in addition to any and all other sales taxes allowed by law, but no ordinance or order imposing a tax under section 94.870 shall be effective unless the governing body of the political subdivision submits to the voters of the political subdivision at a municipal or state general, primary, or special election a proposal to authorize the governing body of the political subdivision to impose such tax.

311.481. SUNDAY LIQUOR SALES FOR AIRLINE CLUBS. — 1. Notwithstanding any other provisions of this chapter to the contrary, any person who possesses the qualifications required by this chapter, and who now or hereafter meets the requirements of and complies with the provisions of this chapter, may apply for, and the supervisor of liquor control may issue, a license to sell intoxicating liquor, as defined in this chapter, by the drink between the hours of 11:00 a.m. on Sunday and midnight on Sunday at retail for consumption on the premises of any airline club as described in the application. As used in this section, the term "airline club" shall mean an establishment located within an international airport and owned, leased, or operated by or on behalf of an airline, as a membership club and special services facility for passengers of such airline.

2. The authority for the collection of fees by cities and counties as provided in section 311.220, and all other laws and regulations of the state relating to the sale of liquor by the drink for consumption on the premises where sold, shall apply to each airline club in the same manner as they apply to establishments licensed pursuant to sections 311.085, 311.090 and 311.095, and in addition to all other fees required by law, a person licensed pursuant to this section shall pay an additional fee of two hundred dollars a year payable

at the same time and in the same manner as its other fees; except that the requirements other than fees pertaining to the sale of liquor by the drink on Sunday shall not apply.

407.610. PROMOTION PROGRAM, NOTICE TO ATTORNEY GENERAL, REQUIREMENTS — UNLAWFUL PRACTICES — FAILURE TO COMPLY, PENALTY. — 1. Any person who intends to use any promotional device or promotional program, including any sweepstakes, gift award, drawing or display booth, or any other such award or prize inducement items, to advertise, solicit sales or sell any time-share period, time-share plan, or time-share property in the state of Missouri **or sell any tourist-related services as defined pursuant to subsection 8 of this section where a consumer is required to provide any consideration other than monetary for such tourist-related services**, shall notify the Missouri attorney general in writing of this intention not less than fourteen days prior to release of such materials to the public. Included with such notice shall be an exact copy of each promotional device and promotional program to be used. Each promotional device, promotional program, and the notice thereof shall include the following information:

- (1) A statement that the promotional device or promotional program is being used for the purpose of soliciting sales of a time-share period, time-share plan or time-share property;
- (2) The date by which all such awards or other prize inducement items will be awarded;
- (3) The method by which all such items will be awarded;
- (4) The odds of being awarded such items;
- (5) The manufacturer's suggested retail price of such items; and
- (6) The names and addresses of each time-share plan or business entity participating in the promotional device or promotional program.

2. Any material change in a promotional device or promotional program previously submitted to the attorney general shall constitute a new promotional device or promotional program and shall be resubmitted to the attorney general with the notice thereof.

3. It shall be a violation of section 407.020 for any person to:

- (1) Fail to comply with the provisions of the notice requirements of this section;
- (2) Provide to the attorney general in the notice required by this section any information that is false or misleading in a material manner;
- (3) Represent to any person that the filing of the notice of the promotional device or the promotional program constitute an endorsement or approval of the promotional device or promotional program by the attorney general;
- (4) Engage in any act or practice declared to be unlawful by section 407.020 in connection with the use of any promotional device or promotional program or any advertisement, or sale of time-share plans, time-share periods or time-share property.

4. At least one of each prize featured in a promotional program shall be awarded by the day and year specified in the promotion. When a promotion promises the award of a certain number of each prize, such number of prizes shall be awarded by the date and year specified in the promotion. A record shall be maintained containing the names and addresses of winners of the prizes and the record shall be made available, upon request, to the public, upon the payment of reasonable reproduction costs. If a seller for any reason does not provide, at the time of a site visitation or visitation to a time-share sales office, the inducement gift which was promised, the seller shall deliver the gift, or an acceptable substitute therefor agreed upon in writing, to the prospective purchaser or purchaser no later than ten days following such visitation, or shall deliver instead of such gift cash in an amount equal to the retail value of the gift.

5. If a prospective purchaser or purchaser does not receive the gift or the cash as provided in subsection 4 of this section, he may bring an action under the provisions of section 407.025. For purposes of actions brought pursuant to this section, the term "actual damages", as used in section 407.025, shall mean at least five times the cash retail value of the most expensive gift offered, but shall not exceed one thousand dollars, in addition to such other actual damages as may be determined by the evidence.

6. The provisions of sections 407.600 to 407.630 shall not apply to a person who has acquired a time-share period for his own occupancy and later offers it for resale.

7. If the sale of a time-share plan or of time-share property is subject to the provisions of sections 407.600 to 407.630, such sale shall not be subject to the provisions of chapter 339, RSMo.

8. For the purposes of this section, the term "Tourist-related services" includes but is not limited to, selling or entering into contracts or other arrangements under which a purchaser receives a premium, coupon or contract for car rentals, lodging, transfers, entertainment, sightseeing or any service reasonably related to air, sea, rail, motor coach or other medium of transportation directly to the consumer.

620.467. DIVISION OF TOURISM SUPPLEMENTAL REVENUE FUND CREATED — USE OF FUND — LAPSE TO GENERAL REVENUE PROHIBITED — FUNDING — EFFECTIVE AND EXPIRATION DATES. — 1. The state treasurer shall annually [transfer] **deposit** an amount prescribed in this section out of the general revenue fund pursuant to section 144.700, RSMo, in a fund hereby created in the state treasury, to be known as the "Division of Tourism Supplemental Revenue Fund". The state treasurer shall administer the fund, and the moneys in such fund, except the appropriate percentage of any refund made of taxes collected under the provisions of chapter 144, RSMo, shall be used solely by the division of tourism of the department of economic development to carry out the duties and functions of the division as prescribed by law. Moneys [transferred to] **deposited in** the division of tourism supplemental revenue fund shall be in addition to a budget base in each fiscal year. For fiscal year 1994, such budget base shall be six million two hundred thousand dollars, and in each succeeding fiscal year the budget base shall be the prior fiscal year's general revenue base plus any additional appropriations made to the division of tourism, including one hundred percent of the prior fiscal year's [transfers] **deposits** made to the division of tourism supplemental revenue fund pursuant to this section. The general revenue base shall decrease by ten percent in each fiscal year following fiscal year 1994. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the division of tourism supplemental revenue fund at the end of any biennium shall not be [transferred] **deposited** to the credit of the general revenue fund.

2. In fiscal years 1995 to 2010, a portion of general revenue determined pursuant to this subsection, shall be [transferred] **deposited** to the credit of the division of tourism supplemental revenue fund pursuant to subsection 1 of this section. The director of revenue shall determine the amount [transferred] **deposited** to the credit of the division of tourism supplemental revenue fund in each fiscal year by computing the previous year's total appropriation into the division of tourism supplemental revenue fund and adding to such appropriation amount the total amount derived from the retail sale of tourist-oriented goods and services collected pursuant to the following sales taxes: state sales taxes; sales taxes collected pursuant to sections 144.010 to 144.430, RSMo, that are designated as local tax revenue to be deposited in the school district trust fund pursuant to section 144.701, RSMo; sales taxes collected pursuant to section 43(a) of article IV of the Missouri Constitution; and sales taxes collected pursuant to section 47(a) of article IV of the Missouri Constitution. If the increase in such sales taxes derived from the retail sale of tourist-oriented goods and services in the fiscal year three years prior to the fiscal year in which each [transfer] **deposit** shall be made is at least three percent over such sales taxes derived from the retail sale of tourist-oriented goods and services generated in the fiscal year four years prior to the fiscal year in which each [transfer] **deposit** shall be made, an amount equal to one-half of such sales taxes generated above a three percent increase shall be calculated by the director of revenue and the amount calculated shall be [transferred] **deposited** by the state treasurer to the credit of the division of tourism supplemental revenue fund.

3. Total [transfers to] **deposits in** the supplemental revenue fund in any fiscal year pursuant to subsections 1 and 2 of this section shall not exceed the amount [transferred] **deposited** into

the division of tourism supplemental revenue fund in the fiscal year immediately preceding the current fiscal year by more than three million dollars.

4. As used in this section, "sales of tourism-oriented goods and services", are those sales by businesses registered with the department of revenue under the following SIC Codes:

- (1) SIC Code 5811;
- (2) SIC Code 5812;
- (3) SIC Code 5813;
- (4) SIC Code 7010;
- (5) SIC Code 7020;
- (6) SIC Code 7030;
- (7) SIC Code 7033;
- (8) SIC Code 7041;
- (9) SIC Code 7920;
- (10) SIC Code 7940;
- (11) SIC Code 7990;
- (12) SIC Code 7991;
- (13) SIC Code 7992;
- (14) SIC Code 7996;
- (15) SIC Code 7998;
- (16) SIC Code 7999; and
- (17) SIC Code 8420.

5. Prior to each appropriation from the division of tourism supplemental revenue fund, the division of tourism shall present to the committee on tourism, recreational and cultural affairs of the house of representatives and to the transportation and tourism committee of the senate, or their successors, a promotional marketing strategy including, but not limited to, targeted markets, duration of market plans, ensuing market strategies, and the actual and estimated investment return, if any, resulting therefrom.

6. This section shall become effective July 1, 1994. This section shall expire June 30, 2010.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to clarify the law relating to Sunday liquor sales in airline clubs, the enactment of section 311.481 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section 311.481 of this act shall be in full force and effect upon its passage and approval.

Approved July 11, 2002

HB 1075 [HB 1075]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows owners of real property where vehicles have been abandoned to apply for certificate of title.

AN ACT to amend chapter 301, RSMo, by adding thereto one new section relating to the titling of certain property abandoned on privately owned real estate.

SECTION

A. Enacting clause.

301.193. Abandoned property, titling of, privately owned real estate, procedure.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 301, RSMo, is amended by adding thereto one new section, to be known as section 301.193, to read as follows:

301.193. ABANDONED PROPERTY, TITLING OF, PRIVATELY OWNED REAL ESTATE, PROCEDURE. — 1. Any person who purchases or is the owner of real property on which vehicles, as defined in section 301.011, vessels or watercraft, as defined in section 306.010, RSMo, or outboard motors, as that term is used in section 306.530, RSMo, have been abandoned, without the consent of said purchaser or owner of the real property, may apply to the department of revenue for a certificate of title. Prior to making application for a certificate of title the owner of the real estate shall have the vehicle inspected by law enforcement pursuant to subsection 9 of section 301.190, and shall have law enforcement perform a check in the national crime information center and any appropriate statewide law enforcement computer to determine if the vehicle has been reported stolen and the name and address of the person to whom the vehicle was last titled and any lienholders of record. The owner or purchaser of the real estate shall, thirty days prior to making application for title, notify any owners or lienholders of record for the vehicle by certified mail that the owner intends to apply for a certificate of title from the director for the abandoned vehicle. The application for title shall be accompanied by:

(1) A statement explaining the circumstances by which the abandoned property came into the owner or purchaser's possession; a description of the abandoned property including the year, make, model, vehicle identification number and any decal or license plate that may be affixed to the vehicle; the current location of the abandoned property; and the retail value of the abandoned property;

(2) An inspection report of the abandoned property by a law enforcement agency pursuant to subsection 9 of section 301.190; and

(3) A copy of the thirty-day notice and certified mail receipt mailed to any owner and any person holding a valid security interest of record.

2. Upon receipt of the application and supporting documents, the director shall search the records of the department of revenue, or initiate an inquiry with another state, if the evidence presented indicated the abandoned property was registered or titled in another state, to verify the name and address of any owners and any lienholders. If the latest owner or lienholder was not notified the director shall inform the owner or purchaser of the real estate of the latest owner and lienholder information so that notice may be given as required by subsection 1 of this section. Any owner or lienholder receiving notification may protest the issuance of title by, within the thirty-day notice period and may file a petition to recover the vehicle, naming the owner of the real estate and serving a copy of the petition on the director of revenue. The director shall not be a party to such petition but shall, upon receipt of the petition, suspend the processing of any further certificate of title until the rights of all parties to the vehicle are determined by the court. Once all requirements are satisfied the director shall issue one of the following:

(1) An original certificate of title if the vehicle examination certificate, as provided in section 301.190, indicates that the vehicle was not previously in a salvaged condition or rebuilt;

(2) An original certificate of title designated as prior salvage if the vehicle examination certificate as provided in section 301.190 indicates the vehicle was previously in a salvaged condition or rebuilt;

(3) A salvage certificate of title designated with the words "salvage/abandoned property" or junking certificate based on the condition of the abandoned property as stated in the inspection report.

Approved July 3, 2002

HB 1078 [SCS HB 1078]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes sales tax for regional jail districts and associated court facilities.

AN ACT to amend chapter 221, RSMo, by adding thereto one new section authorizing a sales tax for regional jail districts and associated court facilities, with an expiration date.

SECTION

A. Enacting clause.

221.407. Regional jail district sales tax authorized, ballot language — special trust fund established — expiration date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 221, RSMo, is amended by adding thereto one new section, to be known as section 221.407, to read as follows:

221.407. REGIONAL JAIL DISTRICT SALES TAX AUTHORIZED, BALLOT LANGUAGE — SPECIAL TRUST FUND ESTABLISHED — EXPIRATION DATE. — 1. The commission of any regional jail district may impose, by order, a sales tax in the amount of one-eighth of one percent, one-fourth of one percent, three-eighths of one percent, or one-half of one percent on all retail sales made in such region which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo, for the purpose of providing jail services and court facilities and equipment for such region. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no order imposing a sales tax pursuant to this section shall be effective unless the commission submits to the voters of the district, on any election date authorized in chapter 115, RSMo, a proposal to authorize the commission to impose a tax.

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the regional jail district of (counties' names) impose a region-wide sales tax of (insert amount) for the purpose of providing jail services and court facilities and equipment for the region?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of the proposal, then the order and any amendment to such order shall be in effect on the first day of the second quarter immediately following the election approving the proposal. If the proposal receives less than the required majority, the commission shall have no power to impose the sales tax authorized pursuant to this section

unless and until the commission shall again have submitted another proposal to authorize the commission to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters of the district voting on such proposal; however, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last submission of a proposal pursuant to this section.

3. All revenue received by a district from the tax authorized pursuant to this section shall be deposited in a special trust fund and shall be used solely for providing jail services and court facilities and equipment for such district for so long as the tax shall remain in effect.

4. Once the tax authorized by this section is abolished or terminated by any means, all funds remaining in the special trust fund shall be used solely for providing jail services and court facilities and equipment for the district. Any funds in such special trust fund which are not needed for current expenditures may be invested by the commission in accordance with applicable laws relating to the investment of other county funds.

5. All sales taxes collected by the director of revenue pursuant to this section on behalf of any district, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "Regional Jail District Sales Tax Trust Fund". The moneys in the regional jail district sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund which was collected in each district imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of each member county and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the district which levied the tax. Such funds shall be deposited with the treasurer of each such district, and all expenditures of funds arising from the regional jail district sales tax trust fund shall be paid pursuant to an appropriation adopted by the commission and shall be approved by the commission. Expenditures may be made from the fund for any function authorized in the order adopted by the commission submitting the regional jail district tax to the voters.

6. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such districts. If any district abolishes the tax, the commission shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal, and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such district, the director of revenue shall remit the balance in the account to the district and close the account of that district. The director of revenue shall notify each district in each instance of any amount refunded or any check redeemed from receipts due the district.

7. Except as provided in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to this section.

8. The provisions of this section shall expire September 30, 2015.

Approved July 11, 2002

HB 1086 [HB 1086]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires personal information related to accounts established within Missouri higher education savings account program shall be confidential.

AN ACT to amend chapter 166, RSMo, by adding thereto one new section relating to the privacy of personal information of participants in the Missouri higher education savings program.

SECTION

A. Enacting clause.

166.456. Confidentiality of information.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 166, RSMo, is amended by adding thereto one new section, to be known as section 166.456, to read as follows:

166.456. CONFIDENTIALITY OF INFORMATION. — All personally identifiable information concerning participants and beneficiaries of accounts established within the Missouri higher education savings program pursuant to sections 166.400 to 166.456 shall be confidential, and any disclosure of such information shall be restricted to purposes directly connected with the administration of the program.

Approved June 28, 2002

HB 1093 [SCS HB 1093, 1094, 1159, 1204, 1242, 1272, 1391, 1397, 1411, 1624, 1632, 1714, 1755, 1778, 1779, 1852, 1862, 2025 & 2123]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates special license plates for MO-AG Businesses.

AN ACT to repeal section 301.469, RSMo, relating to special license plates and to enact in lieu thereof twenty-five new sections relating to the same subject.

SECTION

A. Enacting clause.

- 301.469. Missouri conservation heritage foundation, special license plate — application, procedure, design, fee.
 - 301.481. Missouri 4-H special license plate, application, fee.
 - 301.2999. Limitation on special license plates, organization authorizing use of its emblem for a fee.
 - 301.3065. MO-AG Businesses special license plate, application, fee.
 - 301.3080. Rotary International special license plate, application, fee.
 - 301.3082. Hearing Impaired Kids Endowment Fund, Inc., special license plate, application, fee.
 - 301.3084. Friends of the Missouri Women's Council special license plate, application, fee.
 - 301.3086. Delta Sigma Theta and Omega Psi Phi special license plates, application, fee.
 - 301.3088. Prevent Disasters in Missouri, September 11, 2001, special license plate, application, fee.
 - 301.3089. Missouri Coroners' and Medical Examiners' Association special license plate, application, fee.
 - 301.3092. Friends of Arrow Rock special license plate, application, fee.
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- 301.3093. Eagle Scout special license plate, application, fee.
- 301.3094. Tribe of Mic-O-Say special license plate, application, fee.
- 301.3095. Order of the Arrow special license plate, application, fee.
- 301.3096. Missouri Federation of Square and Round Dance Clubs special license plate, application, fee.
- 301.3097. God Bless America special license plate, application, fee.
- 301.3098. Kingdom of Calontir special license plate, application, fee.
- 301.3099. Missouri Civil War Reenactors Association special license plate, application, fee.
- 301.3101. Missouri-Kansas-Nebraska Conference of Teamsters special license plate, application, fee.
- 301.3102. St. Louis College of Pharmacy special license plate, application, fee.
- 301.3103. Fraternal Order of Police special license plate, application, fee.
- 301.3109. Certain Greek organizations special license plates, application, fee (Kappa Alpha Psi, Iota Phi Theta, Sigma Gamma Rho, Alpha Phi Alpha, Alpha Kappa Alpha, Zeta Phi Beta, Phi Beta Sigma).
- 301.3117. Jefferson National Parks Association special license plate, application, fee.
- 301.3118. Missouri Elks Association special license plate, application, fee.
- 301.3119. Missouri Travel Council special license plate, application, fee.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 301.469, RSMo, is repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 301.469, 301.481, 301.2999, 301.3065, 301.3080, 301.3082, 301.3084, 301.3086, 301.3088, 301.3089, 301.3092, 301.3093, 301.3094, 301.3095, 301.3096, 301.3097, 301.3098, 301.3099, 301.3101, 301.3102, 301.3103, 301.3109, 301.3117, 301.3118 and 301.3119, to read as follows:

301.469. MISSOURI CONSERVATION HERITAGE FOUNDATION, SPECIAL LICENSE PLATE — APPLICATION, PROCEDURE, DESIGN, FEE. — 1. Any vehicle owner may receive license plates as prescribed in this section, for [issuance either to passenger motor vehicles subject to the registration fees provided in section 301.055, or for a local or nonlocal property-carrying commercial motor vehicle licensed for a gross weight not in excess of twelve thousand pounds as provided in section 301.057 or 301.058] **any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight**, after an annual payment of an emblem-use authorization fee to the Missouri conservation heritage foundation. The foundation hereby authorizes the use of its official emblems to be affixed on multiyear personalized license plates as provided in this section. Any vehicle owner may annually apply for the use of the emblems.

2. Upon annual application and payment of a twenty-five dollar emblem-use authorization fee to the Missouri conservation heritage foundation, the foundation shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented to the director of the department of revenue at the time of registration of a motor vehicle.

3. Upon presentation of the annual statement, payment of a fifteen-dollar fee in addition to the regular registration fees and documents which may be required by law, the director of the department of revenue shall issue a personalized license plate, which shall bear an emblem of the Missouri conservation heritage foundation in a form prescribed by the director, to the vehicle owner. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

4. A vehicle owner, who was previously issued a plate with a Missouri conservation heritage foundation emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the foundation emblem, as otherwise provided by law.

5. The director of the department of revenue may promulgate rules and regulations for the administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in this section shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. All

rulemaking authority delegated prior to August 28, 1999, is of no force and effect; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

301.481. MISSOURI 4-H SPECIAL LICENSE PLATE, APPLICATION, FEE. — Any person who is a member or a former member or whose child is a member of the Missouri 4-H may apply for motor vehicle license plates for any vehicle such person owns, either solely or jointly, other than a commercial or apportioned motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any such person shall make application for the license plates on a form provided by the director of revenue and furnish such proof as a member or member's parent of the Missouri 4-H as the director may require. Upon payment of a fifteen dollar fee, presentation of all documents and payment of all other fees required by law, the director shall issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "MISSOURI 4-H" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Such plates shall also bear an image of the Missouri 4-H emblem. No additional fee shall be charged for personalization of plates issued pursuant to this section. There shall be no limit on the number of plates issued pursuant to this section.

301.2999. LIMITATION ON SPECIAL LICENSE PLATES, ORGANIZATION AUTHORIZING USE OF ITS EMBLEM FOR A FEE. — 1. No specialized license plate shall be issued after January 1, 2002, by the director of revenue which proposes to raise revenue or funds for an organization which authorizes the use of its emblem for a fee unless such organization:

- (1) Is a governmental entity; or
- (2) Is an organization registered pursuant to section 501(c) of the 1986 Internal Revenue Code, as amended, or an equivalent law which applies to such not-for-profit entity.

2. Any organization which raises revenues or funds through the sponsorship of specialized license plates issued pursuant to the provisions of this chapter enacted prior to January 1, 2002, shall have until January 1, 2004, to comply with the provisions of this section. The director shall verify that all organizations that are paid fees for the use of their emblems for specialized license plates are complying with the provisions of this section. The director shall require all organizations which receive revenues or funds for the use of their emblems to verify their status as a governmental entity or a qualified not-for-profit organization as provided in subsection 1 of this section, in a format prescribed by the director. Any specialized license plates issued prior to January 1, 2004, shall remain valid for the period in which they were registered, regardless of the status of the sponsoring organization.

3. Any moneys received by an organization authorizing the use of its emblem or insignia for a specialized license plate shall only be used by such organization to carry out the organization's charitable mission. Such moneys shall not be used for salaries or any administrative costs of the organization. No individual member of any organization authorizing the use of its emblem or insignia for a specialized license plate shall derive any personal pecuniary gain from any fees the organization collects.

4. The director of revenue shall not authorize the manufacture of the material to produce such specialized license plates with the individual seal, logo, or emblem until such time the director has received one hundred applications for such plates. An organization shall be exempt from the provisions of this subsection if it deposits with the department of revenue the actual cost of producing the initial issuance of such plates and the director receives at least ten applications for such plates.

5. The provisions of this section shall not apply to any special license plates which bears the emblem or insignia of a branch of the U.S. military or a military organization.

301.3065. MO-AG BUSINESSES SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any motor vehicle owner who has obtained an annual emblem-use authorization statement from the MO-AG Businesses may apply for MO-AG Businesses license plates for any motor vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. MO-AG Businesses hereby authorize the use of their official emblem to be affixed on multiyear personalized license plates as provided in this section. Any motor vehicle owner may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to MO-AG Businesses, MO-AG Businesses shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented to the department of revenue at the time of registration of a motor vehicle.

3. Upon presentation of the annual statement and payment of a fifteen dollar fee in addition to the regular registration fees and presentation of other documents which may be required by law, the department of revenue shall issue a personalized license plate to the vehicle owner, which shall bear the emblem of the MO-AG Businesses in a form prescribed by the director. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. A fee for the issuance of personalized license plates issued pursuant to section 301.144, shall not be required for plates issued pursuant to this section.

4. A vehicle owner, who was previously issued a plate with the MO-AG Businesses authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the MO-AG Businesses emblem, as otherwise provided by law.

5. The director of revenue may promulgate rules and regulations for the administration of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3080. ROTARY INTERNATIONAL SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of Rotary International may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to Rotary International of which the person is a member. Rotary International hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Rotary International derived from this section, except reasonable administrative costs, shall be used solely for the purposes of Rotary International. Any member of Rotary International may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Rotary International, the organization shall issue to the vehicle owner,

without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of Rotary International. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

3. A vehicle owner, who was previously issued a plate with the Rotary International emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Rotary International emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3082. HEARING IMPAIRED KIDS ENDOWMENT FUND, INC., SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any person may receive special license plates as prescribed by this section for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Hearing Impaired Kids Endowment Fund, Inc. The Hearing Impaired Kids Endowment Fund, Inc., hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Hearing Impaired Kids Endowment Fund, Inc., derived from this section, except reasonable administrative costs, shall be used solely for the benefit of children who are residents of Missouri.

2. Upon annual application and payment of a twenty-five dollar emblem-use authorization fee to the Hearing Impaired Kids Endowment Fund, Inc., that organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Hearing Impaired Kids Endowment Fund, Inc. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

3. A vehicle owner, who was previously issued a plate with the Hearing Impaired Kids Endowment Fund, Inc., emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Hearing Impaired Kids Endowment Fund, Inc., emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3084. FRIENDS OF THE MISSOURI WOMEN'S COUNCIL SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any person may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an

apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual contribution of an emblem-use authorization fee to the Friends of the Missouri Women's Council. Any contribution to the Friends of the Missouri Women's Council pursuant to this section, except reasonable administrative costs, shall be designated for the sole purpose of providing breast cancer services, including but not limited to screening, treatment, staging, and follow-up services. The Friends of the Missouri Women's Council hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any person may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Friends of the Missouri Women's Council, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear a graphic design depicting the breast cancer awareness pink ribbon symbol with the words "Breast Cancer Awareness" forming an oval around the symbol, and shall bear the words "MISSOURI WOMEN'S COUNCIL" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with a breast cancer awareness emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3086. DELTA SIGMA THETA AND OMEGA PSI PHI SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. Any member of the Delta Sigma Theta or Omega Psi Phi Greek organizations at any college or university within this state may apply for special motor vehicle license plates for any vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the appropriate organization. Delta Sigma Theta and Omega Psi Phi hereby authorize the use of their official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Delta Sigma Theta or Omega Psi Phi derived from this section, except reasonable administrative costs, shall be used solely for the purposes of those organizations. Any member of Delta Sigma Theta or Omega Psi Phi may annually apply for the use of the organization's emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Delta Sigma Theta or Omega Psi Phi, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which

shall bear the emblem of Delta Sigma Theta or Omega Psi Phi. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

3. A vehicle owner, who was previously issued a plate with the Delta Sigma Theta or Omega Psi Phi emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Delta Sigma Theta or Omega Psi Phi emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3088. PREVENT DISASTERS IN MISSOURI, SEPTEMBER 11, 2001, SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any person who wishes to pay tribute to the disaster relief efforts made in the aftermath of the events of September 11, 2001, may apply for special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after payment of an annual contribution to the American Red Cross. Any contribution to the American Red Cross derived from this section, except reasonable administrative costs, shall be deposited in and used solely for the purposes of the Missouri state service delivery area single family disaster fund. Any person may annually apply for such special license plates.

2. Upon annual application and payment of a twenty-five dollar contribution to the American Red Cross disaster relief fund, the organization shall issue to the vehicle owner, without further charge, an annual contribution statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual contribution statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate herein described. Such license plates shall have the words "PREVENT DISASTERS IN MISSOURI" in lieu of the words "SHOW-ME STATE" and shall have a white background with a blue and red configuration at the discretion of the advisory committee established in section 301.129. The license plates shall be inscribed with the image of an American flag, and further shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a special license plate pursuant to this section but who does not provide an annual contribution statement at a subsequent time of registration, shall be issued a new plate which does not bear the design as described in subsection 2 of this section, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3089. MISSOURI CORONERS' AND MEDICAL EXAMINERS' ASSOCIATION SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any person who is a member in good standing of the Missouri Coroners' and Medical Examiners' Association, after payment of an

emblem-use authorization fee to the Missouri Coroners' and Medical Examiners' Association, may apply for coroners' office license plates for any vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The Missouri Coroners' and Medical Examiners' Association hereby authorizes the use of its official emblem to be affixed on multiyear license plates as provided in this section.

2. Upon annual application and payment of a twenty-five dollar emblem use contribution to the Missouri Coroners' and Medical Examiners' Association, the Missouri Coroners' and Medical Examiners' Association shall issue to a member, without further charge, an emblem use authorization statement which shall be presented by the member to the department of revenue at the time of registration of a motor vehicle. Any contribution to the Missouri Coroners' and Medical Examiners' Association derived from this section, except reasonable administrative costs, shall be used for the purpose of promoting and supporting the objectives of the Missouri Coroners' and Medical Examiners' Association.

3. Upon presentation of the annual statement, payment of a fifteen-dollar fee in addition to the regular registration fees and presentation of documents required by law, the department of revenue shall issue a license plate to the member, which shall bear the emblem of the Missouri Coroners' and Medical Examiners' Association, the six-point star which is the universally recognized symbol for law enforcement, and the words "CORONERS' OFFICE" in place of the words "SHOW-ME STATE". The director of revenue shall annually set aside personalized license plates bearing each member's designated number to be issued to each member of the Missouri Coroners' and Medical Examiners' Association who meets all requirements established by this section. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section. The license plate authorized by this section shall use a process to ensure that the emblem shall be displayed upon the license plate in the clearest and most attractive manner possible. Such license plates shall be made with fully reflective material with a common color scheme and design and shall be aesthetically attractive, as prescribed by section 301.130.

4. License plates issued pursuant to this section shall be held by the appropriate member of the Missouri Coroners' and Medical Examiners' Association only while such person remains a member in good standing of the Missouri Coroners' and Medical Examiners' Association. Within fifteen days of the loss of member in good standing status, the member shall surrender the license plates issued pursuant to this section to the director of revenue, who shall make them available to the succeeding member of the Missouri Coroners' and Medical Examiners' Association.

301.3092. FRIENDS OF ARROW ROCK SPECIAL LICENSE PLATE, APPLICATION, FEE. —

1. Any member of the organization known as Friends of Arrow Rock may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to Friends of Arrow Rock of which the person is a member. Friends of Arrow Rock hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Friends of Arrow Rock derived from this section, except reasonable administrative costs, shall be used solely for the purposes of Friends of Arrow Rock. Any member of Friends of Arrow Rock may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Friends of Arrow Rock, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented

by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of Friends of Arrow Rock. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

3. A vehicle owner, who was previously issued a plate with the Friends of Arrow Rock emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Friends of Arrow Rock emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3093. EAGLE SCOUT SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any Eagle Scout or parents of an Eagle Scout may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Boy Scouts of America Council of which the person is a member or the parent of a member. The Boy Scouts of America hereby authorizes the use of its official Eagle Scout emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Boy Scouts of America derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Boy Scouts of America. Any Eagle Scout or parent of an Eagle Scout may annually apply for the use of the emblem. An Eagle Scout or parent of an Eagle Scout may apply for the use of the emblem and pay the twenty-five dollar emblem-use authorization fee at any local district council in the state.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Boy Scouts of America, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the Eagle Scout emblem. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

3. A vehicle owner, who was previously issued a plate with the Eagle Scout emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Eagle Scout emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3094. TRIBE OF MIC-O-SAY SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of the Tribe of Mic-O-Say may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than

an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Tribe of Mic-O-Say of which the person is a member. The Tribe of Mic-O-Say hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Tribe of Mic-O-Say derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Tribe of Mic-O-Say. Any member of the Tribe of Mic-O-Say may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Tribe of Mic-O-Say, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Tribe of Mic-O-Say. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

3. A vehicle owner, who was previously issued a plate with the Tribe of Mic-O-Say emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Tribe of Mic-O-Say emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3095. ORDER OF THE ARROW SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of the Order of the Arrow may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Order of the Arrow of which the person is a member. The Order of the Arrow hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Order of the Arrow derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Order of the Arrow. Any member of the Order of the Arrow may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Order of the Arrow, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Order of the Arrow. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

3. A vehicle owner, who was previously issued a plate with the Order of the Arrow emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Order of the Arrow emblem, as otherwise provided by law. The director of

revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3096. MISSOURI FEDERATION OF SQUARE AND ROUND DANCE CLUBS SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of the Missouri Federation of Square and Round Dance Clubs may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Missouri Federation of Square and Round Dance Clubs of which the person is a member. The Missouri Federation of Square and Round Dance Clubs hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Missouri Federation of Square and Round Dance Clubs derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Missouri Federation of Square and Round Dance Clubs. Any member of the Missouri Federation of Square and Round Dance Clubs may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Missouri Federation of Square and Round Dance Clubs, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Missouri Federation of Square and Round Dance Clubs. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

3. A vehicle owner, who was previously issued a plate with the Missouri Federation of Square and Round Dance Clubs emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Missouri Federation of Square and Round Dance Clubs emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3097. GODBLESSAMERICA SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any vehicle owner may apply for "God Bless America" license plates for any motor vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Upon making a ten-dollar contribution to the World War II memorial fund the vehicle owner may apply for the "God Bless America" plate. If the contribution is made directly to the Missouri veterans' commission they shall issue the individual making the contribution a receipt, verifying the contribution, that may be used to apply for the "God Bless America" license plate. If the contribution is made directly to the director of revenue pursuant to section 301.3031, the director shall note the contribution and the owner may then apply for the "God Bless America" plate. The applicant for such plate must pay a fifteen-dollar fee in addition to the regular registration fees and present any other documentation required by law for each set of "God Bless America" plates issued

pursuant to this section. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section. The "God Bless America" plate shall bear the emblem of the American flag in a form prescribed by the director of revenue and shall have the words "GOD BLESS AMERICA" in place of the words "SHOW-ME-STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

2. The director of revenue may promulgate rules and regulations for the administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

301.3098. KINGDOM OF CALONTIR SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of the Kingdom of Calontir may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Kingdom of Calontir, a subdivision of the Society for Creative Anachronism, of which the person is a member. The Kingdom of Calontir hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Kingdom of Calontir derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Kingdom of Calontir. Any member of the Kingdom of Calontir may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Kingdom of Calontir, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Kingdom of Calontir. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Society for Creative Anachronism emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Society for Creative Anachronism emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3099. MISSOURI CIVIL WAR REENACTORS ASSOCIATION SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of the Missouri Civil War Reenactors Association may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Missouri Civil War Reenactors Association of which the person is a member. The Missouri Civil War Reenactors Association hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Missouri Civil War Reenactors Association derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Missouri Civil War Reenactors Association. Any member of the Missouri Civil War Reenactors Association may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Missouri Civil War Reenactors Association, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Missouri Civil War Reenactors Association. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Missouri Civil War Reenactors Association emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Missouri Civil War Reenactors Association emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3101. MISSOURI-KANSAS-NEBRASKA CONFERENCE OF TEAMSTERS SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of the Missouri-Kansas-Nebraska Conference of Teamsters may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Missouri-Kansas-Nebraska Conference of Teamsters of which the person is a member. The Missouri-Kansas-Nebraska Conference of Teamsters hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Missouri-Kansas-Nebraska Conference of Teamsters derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Missouri-Kansas-Nebraska Conference of Teamsters. Any member of the Missouri-Kansas-Nebraska Conference of Teamsters may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Missouri-Kansas-Nebraska Conference of Teamsters, the organization

shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Missouri-Kansas-Nebraska Conference of Teamsters and the words "MKN Conference of Teamsters" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Missouri- Kansas-Nebraska Conference of Teamsters emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Missouri-Kansas- Nebraska Conference of Teamsters emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3102. ST. LOUIS COLLEGE OF PHARMACY SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any vehicle owner who has obtained an annual emblem-use authorization statement from the St. Louis College of Pharmacy may, subject to the registration fees provided in section 301.055, apply for St. Louis College of Pharmacy license plates for any motor vehicle such person owns either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The St. Louis College of Pharmacy hereby authorizes the use of its official emblem to be affixed on multiyear license plates as provided in this section. Any vehicle owner may annually apply for the use of the emblem. Any contribution to the St. Louis College of Pharmacy derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the St. Louis College of Pharmacy.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the St. Louis College of Pharmacy, the St. Louis College of Pharmacy shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the vehicle owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement and payment of a fifteen-dollar fee in addition to the regular registration fees and presentation of other documents which may be required by law, the department of revenue shall issue a license plate to the vehicle owner, which shall bear the emblem of the St. Louis College of Pharmacy in a form prescribed by the director, shall bear six letters or numbers and shall bear the words "ST. LOUIS COLLEGE OF PHARMACY" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the St. Louis College of Pharmacy emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the St. Louis College of Pharmacy emblem, as otherwise provided by

law. The director of revenue may promulgate rules and regulations for the administration of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3103. FRATERNAL ORDER OF POLICE SPECIAL LICENSE PLATE, APPLICATION, FEE.

— 1. Any member of the fraternal order of police of the state of Missouri may receive special license plates as prescribed by this section for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the fraternal order of police of the state of Missouri. The fraternal order of police of the state of Missouri hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the fraternal order of police of the state of Missouri derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the fraternal order of police of the state of Missouri. Any member of the fraternal order of police of the state of Missouri may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the fraternal order of police of the state of Missouri, the fraternal order of police of the state of Missouri shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the fraternal order of police of the state of Missouri. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner who was previously issued a plate with the fraternal order of police of the state of Missouri emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration shall be issued a new plate which does not bear the fraternal order of police of the state of Missouri emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3109. CERTAIN GREEK ORGANIZATIONS SPECIAL LICENSE PLATES, APPLICATION, FEE (KAPPA ALPHA PSI, IOTA PHI THETA, SIGMA GAMMA RHO, ALPHA PHI ALPHA, ALPHA KAPPA ALPHA, ZETA PHI BETA, PHI BETA SIGMA).

— 1. Any current member or alumnus of the Kappa Alpha Psi, Iota Phi Theta, Sigma Gamma Rho, Alpha Phi Alpha, Alpha Kappa Alpha, Zeta Phi Beta, and Phi Beta Sigma Greek organizations at any college or university within this state may apply for special motor vehicle license plates for any vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the appropriate organization. Kappa Alpha Psi, Iota Phi Theta, Sigma Gamma Rho, Alpha Phi Alpha, Alpha Kappa Alpha, Zeta Phi Beta, and Phi Beta Sigma hereby authorize the use of their

official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Kappa Alpha Psi, Iota Phi Theta, Sigma Gamma Rho, Alpha Phi Alpha, Alpha Kappa Alpha, Zeta Phi Beta, or Phi Beta Sigma derived from this section, except reasonable administrative costs, shall be used solely for the purposes of those organizations. Any member of Kappa Alpha Psi, Iota Phi Theta, Sigma Gamma Rho, Alpha Phi Alpha, Alpha Kappa Alpha, Zeta Phi Beta, and Phi Beta Sigma may annually apply for the use of the organization's emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Kappa Alpha Psi, Iota Phi Theta, Sigma Gamma Rho, Alpha Phi Alpha, Alpha Kappa Alpha, Zeta Phi Beta, or Phi Beta Sigma the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of Kappa Alpha Psi, Iota Phi Theta, Sigma Gamma Rho, Alpha Phi Alpha, Alpha Kappa Alpha, Zeta Phi Beta, or Phi Beta Sigma. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Kappa Alpha Psi, Iota Phi Theta, Sigma Gamma Rho, Alpha Phi Alpha, Alpha Kappa Alpha, Zeta Phi Beta, or Phi Beta Sigma emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Kappa Alpha Psi, Iota Phi Theta, Sigma Gamma Rho, Alpha Phi Alpha, Alpha Kappa Alpha, Zeta Phi Beta, or Phi Beta Sigma emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3117. JEFFERSON NATIONAL PARKS ASSOCIATION SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of Jefferson National Parks Association may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to Jefferson National Parks Association of which the person is a member. Jefferson National Parks Association hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Jefferson National Parks Association derived from this section, except reasonable administrative costs, shall be used solely for the purposes of Jefferson National Parks Association. Any member of Jefferson National Parks Association may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Jefferson National Parks Association, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee, and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which

shall bear the emblem of the Jefferson National Parks Association and shall have the words "Jefferson National Parks Association" in place of the words "Show-Me State". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Jefferson National Parks Association emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Jefferson National Parks Association emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3118. MISSOURI ELKS ASSOCIATION SPECIAL LICENSE PLATE, APPLICATION, FEE.

— 1. Any member of Missouri Elks Association may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to Missouri Elks Association of which the person is a member. Missouri Elks Association hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Missouri Elks Association derived from this section, except reasonable administrative costs, shall be used solely for the purposes of Missouri Elks Association. Any member of Missouri Elks Association may annually apply for the use of the emblem.

2. Upon annual application and payment of a fifteen dollar emblem-use contribution to Missouri Elks Association, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of Missouri Elks Association. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

3. A vehicle owner, who was previously issued a plate with the Missouri Elks Association emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Missouri Elks Association emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3119. MISSOURI TRAVEL COUNCIL SPECIAL LICENSE PLATE, APPLICATION, FEE.

— 1. Any individual may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to

Missouri Travel Council. Missouri Travel Council hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Missouri Travel Council derived from this section, except reasonable administrative costs, shall be used solely for the purposes of Missouri Travel Council. Any member of Missouri Travel Council may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Missouri Travel Council, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of Missouri Travel Council. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Missouri Travel Council emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Missouri Travel Council emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

Approved June 13, 2002

HB 1141 [SCS HB 1141,1400,1645,1745 & 2026]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes the "Trooper James Froemsdorf Memorial Highway" between mile markers 129 and 135 on I-55 in Perry County.

AN ACT to amend chapters 10 and 227, RSMo, by adding thereto eight new sections relating to the designation of state entities.

SECTION

- A. Enacting clause.
- 10.140. Missouri fox trotting horse, official state horse.
- 227.317. Babe Adams Highway designated.
- 227.319. Trooper James Froemsdorf Memorial Highway designated (Perry County).
- 227.321. Veterans Memorial Bridge designated.
- 227.323. Henry Shaw Ozark Corridor designated.
- 227.326. Sergeant Rob Guilliams, Missouri State Highway Patrol, Memorial Bridge designated (Pemiscot County).
- 227.329. Trooper Kelly L. Poynter Memorial Highway designated (Texas County).
- 227.333. Sergeant Randy Sullivan Memorial Highway designated (Iron County).

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapters 10 and 227, RSMo, are amended by adding thereto eight new sections, to be known as sections 10.140, 227.317, 227.319, 227.321, 227.323, 227.326, 227.329 and 227.333, to read as follows:

10.140. MISSOURI FOX TROTting HORSE, OFFICIAL STATE HORSE. — The Missouri Fox Trotting Horse, is hereby selected for, and shall be known as, the official state horse of the state of Missouri.

227.317. BABE ADAMS HIGHWAY DESIGNATED. — The portion of U.S. Highway 136 in Harrison County, from the eastern city limits of Bethany to the Harrison-Mercer County line, shall be designated the "Babe Adams Highway".

227.319. TROOPER JAMES FROEMSDORF MEMORIAL HIGHWAY DESIGNATED (PERRY COUNTY). — The portion of interstate highway 55, from mile marker 129 to mile marker 135, contained within a county of the third classification without a township form of government and with more than eighteen thousand one hundred but less than eighteen thousand two hundred inhabitants shall be designated the "Trooper James Froemsdorf Memorial Highway".

227.321. VETERANS MEMORIAL BRIDGE DESIGNATED. — The Missouri river bridge on route 364 connecting St. Louis and St. Charles counties shall be designated the "Veterans Memorial Bridge".

227.323. HENRY SHAW OZARK CORRIDOR DESIGNATED. — 1. The portion of interstate highway 44, log mile 277.3, Geyer Road overpass, located in a county of the first classification with a charter form of government and with more than one million inhabitants, to log mile 255.0, one mile west of Gray Summit interchange, located in a county of the first classification without a charter form of government and with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants shall be designated the "Henry Shaw Ozark Corridor".

2. Pursuant to section 226.525, RSMo, appropriate signage will be provided at the east and west boundaries of the Henry Shaw Ozark Corridor. Such signage shall affirm the state's value for its natural heritage, the Ozarks, plus the cultural heritage of the communities located along the Henry Shaw Ozark Corridor.

227.326. SERGEANT ROB GUILLIAMS, MISSOURI STATE HIGHWAY PATROL, MEMORIAL BRIDGE DESIGNATED (PEMISCOT COUNTY). — The set of bridges spanning ditch number two on the portions of interstate highway 55 and two-lane highway J at mile marker 16, contained within a county of the third classification without a township form of government and with more than twenty thousand but less than twenty thousand one hundred inhabitants shall be designated the "Sergeant Rob Guilliams, Missouri State Highway Patrol, Memorial Bridge".

227.329. TROOPER KELLY L. POYNTER MEMORIAL HIGHWAY DESIGNATED (TEXAS COUNTY). — The portion of U.S. highway 63, from the southern-most city limits of a city of the fourth classification with more than one thousand nine hundred eighty but less than two thousand eighty inhabitants south to the exit for state route Z, all located within a county of the third classification with a township form of government and with more than twenty-three thousand but less than twenty-three thousand one hundred inhabitants, shall be designated the "Trooper Kelly L. Poynter Memorial Highway". The department of transportation shall, at their discretion, erect and maintain signs commemorating this portion of U.S. highway 63.

227.333. SERGEANT RANDY SULLIVAN MEMORIAL HIGHWAY DESIGNATED (IRON COUNTY). — The portion of state highway 72 in a county of the third classification without a township form of government and with more than ten thousand six hundred inhabitants but less than ten thousand seven hundred inhabitants and in a county of the third classification without a township form of government and with more than eleven thousand seven hundred fifty inhabitants but less than eleven thousand eight hundred fifty inhabitants shall be designated the "Sergeant Randy Sullivan Memorial Highway."

Approved July 11, 2002

HB 1148 [HB 1148]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Permits the establishment of scatter gardens for human cremains.

AN ACT to amend chapter 214, RSMo, by adding thereto one new section relating to scattering gardens in certain cemeteries.

SECTION

- A. Enacting clause.
214.550. Scatter gardens, operation by churches maintaining religious cemeteries — maintenance of garden and records, duty of operator.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 214, RSMo, is amended by adding thereto one new section, to be known as section 214.550, to read as follows:

214.550. SCATTER GARDENS, OPERATION BY CHURCHES MAINTAINING RELIGIOUS CEMETERIES — MAINTENANCE OF GARDEN AND RECORDS, DUTY OF OPERATOR. — **1.** For purposes of this section, the following terms mean:

- (1) "Cremains", the ashes that remain after cremation of a human corpse;
- (2) "Operator", a church that owns and maintains a religious cemetery;
- (3) "Religious cemetery", a cemetery owned, operated, controlled, or managed by any church that has or would qualify for federal tax exempt status as a nonprofit religious organization pursuant to section 501(c) of the Internal Revenue Code as amended;
- (4) "Scatter garden", a location for the spreading of cremains set aside within a cemetery.

2. It shall be lawful for any operator of a religious cemetery adjacent to a church building or other building regularly used as a place of worship to establish a scatter garden for the purpose of scattering human cremains.

3. The operator of any religious cemetery containing a scatter garden shall maintain, protect, and supervise the scatter garden, and shall be responsible for all costs incurred for such maintenance, protection, and supervision. Such operator shall also maintain a record of all cremains scattered in the scatter garden that shall include the name, date of death, and Social Security number of each person whose cremains are scattered, and the date the cremains were scattered.

4. A scatter garden established pursuant to this section shall be maintained by the operator of the religious cemetery for as long as such operator is in existence. Upon dissolution of such operator, all records of cremains shall be transferred to the clerk of the city, town, or village in which the scatter garden is located, or if the scatter garden is located in any unincorporated area, to the county recorder.

Approved June 18, 2002

HB 1150 [SS SCS HCS HB 1150, 1237 & 1327]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes procedures relating to assessment and collection for the Department of Revenue.

AN ACT to repeal sections 137.073, 137.115, 138.060 and 138.100, RSMo, and to enact in lieu thereof seventeen new sections relating to assessment and collection procedures of the department of revenue, with effective dates for certain sections, an expiration date for a certain section and an emergency clause.

SECTION

- A. Enacting clause.
- 32.375. Dispute over collection or remittance of sales or use tax — abatement allowed, when — administrative review.
- 32.378. Compromise of taxes, interest, penalties, or additions to the tax, when — taxpayer agreements and duties — statute of limitations if compromise agreed upon — director's duties — rulemaking authority.
- 32.380. Amnesty to apply to certain taxes — conditions for granting — payments to be deposited in schools of the future fund — rulemaking authority.
- 32.381. Detrimental reliance by taxpayer, effect of.
- 137.073. Definitions — revision of prior levy, when, procedure — calculation of state aid for public schools, taxing authority's duties.
- 137.115. Real and personal property, assessment — maintenance plan — assessor may mail forms for personal property — classes of property, assessment — physical inspection required, when, procedure.
- 138.060. Appeals from assessor's valuation, no presumption that valuation is correct, burden of proof in certain counties — erroneous assessments — hearing, limitation on assessor's testimony of evaluation.
- 138.100. Rules — hearings (counties of the first classification).
- 144.1000. Citation of act.
- 144.1003. Definitions.
- 144.1006. Multistate discussions permitted, state representation, duties.
- 144.1009. Agreements not to invalidate or amend state law — action of general assembly required for implementation of conditions, procedure.
- 144.1012. Elements of agreement, number of delegates necessary to enter into.
- 144.1015. Features of agreement to be considered.
- 620.012. Attorney general to review tax abatement agreements, procedure — termination date.
 - 1. Real and personal property assessment, certain requirements for physical inspection applicable to St. Louis County only.
 - 2. County boards of equalization, certain written materials to be provided in St. Louis County only.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 137.073, 137.115, 138.060 and 138.100, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 32.375, 32.378, 32.380, 32.381, 137.073, 137.115, 138.060, 138.100, 144.1000, 144.1003, 144.1006, 144.1009, 144.1012, 144.1015, 620.012, 1 and 2, to read as follows:

32.375. DISPUTE OVER COLLECTION OR REMITTANCE OF SALES OR USE TAX — ABATEMENT ALLOWED, WHEN — ADMINISTRATIVE REVIEW. — 1. Notwithstanding any provision of law to the contrary, in any dispute regarding the potential liability of a taxpayer for collection and remittance or payment of sales or use tax or related interest, additions to tax or penalties, the director of revenue may, at the request of the taxpayer, consider the reasons for the taxpayer's failure to pay the amounts in dispute.

2. The director may abate all or any portion of any amount assessed or decide to not assess any such amount pursuant to this section if the director determines:

(1) The taxpayer took reasonable steps to determine whether the amounts were owed;

(2) Based on information reasonably available to the taxpayer, the taxpayer reasonably believed that the transactions at issue were not subject to tax and that the amounts in dispute were not owed;

(3) At the time of the transactions at issue, the department of revenue had not issued either:

(a) A regulation that indicated that the transactions at issue were subject to tax; or

(b) Any other written or oral communication that the taxpayer knew of or should have known of stating that the transactions at issue were subject to tax; and

(4) In the discretion of the director, such abatement is in the best interest of the state and will not undermine compliance by taxpayers with the tax laws of this state.

3. If the director determines that any amounts may be abated pursuant to this section, as consideration for the abatement, the taxpayer shall agree that:

(1) The taxpayer shall bear his or her own costs, including any attorney fees;

(2) During the three year period beginning with the date of the agreement, the taxpayer shall comply with all sales and use tax obligations arising from the type of transactions that were the basis of the amounts that are the subject of the agreement and the taxpayer shall not challenge or protest any such sales or use tax obligations arising during the three year period; except that any final decision of a court of competent jurisdiction finding such transactions to be nontaxable and any statutory changes that become effective during the three year period shall apply to the taxpayer notwithstanding any provision of the agreement; and

(3) The taxpayer shall not contest in court or otherwise any amount of the liability sought to be abated.

4. If due to a disagreement concerning the amount to be abated the taxpayer does not agree to the terms provided by subsection 3 of this section or if the director determines the amounts in dispute should not be abated, the director shall issue a final decision setting forth the director's determination. Within sixty days after the date on which the director's decision is delivered in person or is mailed to the taxpayer, whichever is earlier, the taxpayer may file a petition for review of the final decision with the administrative hearing commission.

5. On petition for review before the administrative hearing commission, the commission shall consider whether the director's determination was reasonable based on the factors set forth in subsection 2 of this section. The commission may:

(1) Issue an order to the director stating an amount to be abated by the director, if the commission finds the director's decision unreasonable; or

(2) Issue an order denying the relief sought by the taxpayer, if the commission finds the director's determination reasonable.

6. The provisions of subsection 3 of this section shall apply to any abatement ordered by the commission.

7. A decision of the administrative hearing commission pursuant to this section shall not be subject to appeal or petition for review by the taxpayer or the director.

32.378. COMPROMISE OF TAXES, INTEREST, PENALTIES, OR ADDITIONS TO THE TAX, WHEN — TAXPAYER AGREEMENTS AND DUTIES — STATUTE OF LIMITATIONS IF COMPROMISE AGREED UPON — DIRECTOR'S DUTIES — RULEMAKING AUTHORITY. — 1. In addition to the authority granted to the director of revenue and the administrative hearing commission pursuant to section 32.375, the director of revenue may agree to compromise any tax, interest, penalties or additions to tax assessed or collected by the director of revenue on any of the following grounds:

(1) Doubt as to liability, which exists in any case where there is a genuine dispute as to the existence or amount of the correct tax liability under the law;

(2) Doubt as to collectibility, which exists in any case where the amount assessed including interest, additions to tax and penalties exceeds the taxpayer's ability to pay as defined by regulations promulgated by the director of revenue; or

(3) To promote effective tax administration which means that compromise of the liability will not undermine compliance by taxpayers with the tax laws and that:

(a) Collection of the full liability will result in severe economic hardship to the taxpayer; or

(b) Regardless of the taxpayer's financial circumstances, exceptional circumstances exist such that collection of the full liability will be detrimental to voluntary compliance by taxpayers. Such exceptional circumstances include, but are not limited to, instances where the taxpayer's failure to pay the taxes assessed is the result of circumstances beyond the reasonable control of the taxpayer and is not the result of negligence on the part of the taxpayer, or instances where a reasonable person would not have expected the assessment based on previous policy of the department of revenue or information provided to the taxpayer by the department of revenue.

2. As part of the consideration for any compromise of taxes that is based on subdivisions (2) or (3) of subsection 1 of this section, the taxpayer shall agree:

(1) That the state of Missouri shall keep all payments and other credits applied to the tax, interest, penalties or additions to tax for the periods covered by the offer;

(2) That the state of Missouri shall keep any and all amounts otherwise due the taxpayer as a result of overpayments of any tax or other liability, including interest, additions to tax and penalties, for periods ending before or as of the end of the calendar year in which the offer is accepted; except that the state shall not keep any amounts that, together with amounts already paid on the compromise exceed the liability compromised;

(3) That the taxpayer shall have no right to contest in court or otherwise the amount of the liability compromised;

(4) That the taxpayer shall bear his or her own costs, including any attorney fees;

(5) That during the three year period beginning with the date of the compromise, the taxpayer shall comply with all tax obligations arising from issues or transactions related to the issues or transactions that were the basis of the tax that is the subject of the compromise and that the taxpayer shall not challenge or protest any such tax obligations arising during the three year period; however, any statutory changes that become effective during the three year period shall apply to the taxpayer notwithstanding this provision of the compromise;

(6) That if there is a default in payment of any principal or interest due under terms of the agreement of compromise, or if the taxpayer fails to comply with the provisions of the agreement set forth in subdivision (5) of this subsection, the director of revenue may:

(a) Proceed immediately by suit to collect the entire unpaid balance of the amount agreed upon; or

(b) Proceed immediately by suit to collect as liquidated damages an amount equal to the liability compromised, minus any payments already received under the terms of the agreement, with interest on the unpaid balance from the date of default; or

(c) Disregard the amount of the compromise and apply all amounts previously paid under the agreement against the amount of the liability compromised and assess and collect by levy or suit the balance of the liability. If the director chooses this option, the taxpayer shall have the right to contest in court or otherwise the amount of the liability compromised.

3. The director's remedies under this section are cumulative and the director may pursue any combination of such remedies together or consecutively until the entire liability is paid. No action or inaction by the director shall constitute a waiver or election not to pursue any remedy granted by this section.

4. The taxpayer requesting to compromise payment of taxes, interest, additions to tax, or penalties shall provide any information reasonably requested by the director in order that the director may determine that the offer is made in good faith.

5. If compromise of taxes is agreed upon, any statute of limitations applicable to the assessment and collection of the liability compromised shall be tolled during the period beginning on the date of the compromise and ending one year after the last payment is due pursuant to the agreement.

6. The director's decision to reject or accept an offer of compromise under this section shall be based on consideration of all the facts and circumstances, including the taxpayer's record of overall compliance with the tax laws. Notwithstanding any provision of law to the contrary, the director's decision shall not be subject to review by the administrative hearing commission or any court.

7. The director shall prescribe guidelines for employees of the Missouri department of revenue to determine whether an offer-in-compromise is adequate and should be accepted to resolve a dispute.

8. The director shall establish procedures for an independent administrative review of any rejection of a proposed offer-in-compromise made by a taxpayer pursuant to this section before such rejection is communicated to the taxpayer.

9. The provisions of this section shall not apply to the resolution of any dispute of tax liability in accordance with section 32.375.

10. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

32.380. AMNESTY TO APPLY TO CERTAIN TAXES — CONDITIONS FOR GRANTING — PAYMENTS TO BE DEPOSITED IN SCHOOLS OF THE FUTURE FUND — RULEMAKING AUTHORITY. — 1. Notwithstanding the provisions of any other law to the contrary, with respect to taxes administered by the department of revenue, an amnesty from the assessment or payment of all penalties, additions to tax, and interest shall apply with respect to unpaid taxes reported and paid in full from August 1, 2002, to October 31, 2002, regardless of whether previously assessed, except for penalties, additions to tax, and interest paid before August 1, 2002. The amnesty shall apply only to state tax liabilities due but unpaid on or before December 31, 2001, and shall not extend to any taxpayer who at the time of payment is a party to any criminal investigations or to any civil or criminal litigation that is pending in any court of the United States or this state for nonpayment, delinquency, or fraud in relation to any state tax imposed by the state of Missouri.

2. Upon written application by the taxpayer, on forms prescribed by the director of revenue, and upon compliance with the provisions of this section, the department of

revenue shall not seek to collect any penalty, addition to tax, or interest which may be applicable. The department of revenue shall not seek civil or criminal prosecution for any taxpayer for the taxable period for which the amnesty has been granted.

3. Amnesty shall be granted only to those taxpayers who have applied for amnesty within the period stated in subsection 1 of this section, who have filed a tax return for each taxable period for which amnesty is requested, who have paid the entire balance due within sixty days of approval by the department of revenue, and who agree to comply with state tax laws for the next three years from the date of the agreement. No taxpayer shall be entitled to a waiver of any penalty, addition to tax, or interest pursuant to this section unless full payment of the tax due is made in accordance with rules and regulations established by the director of revenue.

4. If a taxpayer elects to participate in the amnesty program established pursuant to this section as evidenced by full payment of the tax due as established by the director of revenue, that election shall constitute an express and absolute relinquishment of all administrative and judicial rights of appeal. No tax payment received pursuant to this section shall be eligible for refund or credit.

5. Nothing in this section shall be interpreted to disallow the department of revenue to adjust a taxpayer's tax return as a result of any state or federal audit.

6. All tax payments received as a result of the amnesty program established pursuant to this section shall be deposited in the schools of the future fund created pursuant to section 313.820, RSMo, other than revenues earmarked by the Missouri Constitution.

7. The department may promulgate such rules or regulations or issue administrative guidelines as are necessary to administer the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

32.381. DETRIMENTAL RELIANCE BY TAXPAYER, EFFECT OF. — In the event the department of revenue enters into an agreement with a taxpayer and said agreement exceeds the department's statutory authority and the taxpayer has relied to his detriment, the department shall be permitted to honor said contract. This section shall only apply to cases where the department has collected sales tax that was not owed by the taxpayer.

137.073. DEFINITIONS — REVISION OF PRIOR LEVY, WHEN, PROCEDURE — CALCULATION OF STATE AID FOR PUBLIC SCHOOLS, TAXING AUTHORITY'S DUTIES. — 1. As used in this section, the following terms mean:

(1) "General reassessment", changes in value, entered in the assessor's books, of a substantial portion of the parcels of real property within a county resulting wholly or partly from reappraisal of value or other actions of the assessor or county equalization body or ordered by the state tax commission or any court;

(2) "Tax rate", "rate", or "rate of levy", singular or plural, includes the tax rate for each purpose of taxation of property a taxing authority is authorized to levy without a vote and any tax rate authorized by election, including bond interest and sinking fund;

(3) "Tax rate ceiling", a tax rate as revised by the taxing authority to comply with the provisions of this section or when a court has determined the tax rate; except that, other provisions of law to the contrary notwithstanding, a school district may levy the operating levy for school purposes required for the current year pursuant to subsection 2 of section 163.021, RSMo, less all adjustments required pursuant to article X, section 22 of the Missouri Constitution, if such tax rate does not exceed the highest tax rate in effect subsequent to the 1980 tax year. This is the maximum tax rate that may be levied, unless a higher tax rate ceiling is approved by voters of the political subdivision as provided in this section;

(4) "Tax revenue", when referring to the previous year, means the actual receipts from ad valorem levies on all classes of property, including state-assessed property, in the immediately

preceding fiscal year of the political subdivision, plus an allowance for taxes billed but not collected in the fiscal year and plus an additional allowance for the revenue which would have been collected from property which was annexed by such political subdivision but which was not previously used in determining tax revenue pursuant to this section. The term "tax revenue" shall not include any receipts from ad valorem levies on any property of a railroad corporation or a public utility, as these terms are defined in section 386.020, RSMo, which were assessed by the assessor of a county or city in the previous year but are assessed by the state tax commission in the current year. All school districts and those counties levying sales taxes pursuant to chapter 67, RSMo, shall include in the calculation of tax revenue an amount equivalent to that by which they reduced property tax levies as a result of sales tax pursuant to section 67.505, RSMo, and section 164.013, RSMo, in the immediately preceding fiscal year but not including any amount calculated to adjust for prior years. For purposes of political subdivisions which were authorized to levy a tax in the prior year but which did not levy such tax or levied a reduced rate, the term "tax revenue", as used in relation to the revision of tax levies mandated by law, shall mean the revenues equal to the amount that would have been available if the voluntary rate reduction had not been made.

2. Whenever changes in assessed valuation are entered in the assessor's books **for any personal property, in the aggregate, or for any subclass of real property as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016**, the county clerk in all counties and the assessor of St. Louis City shall notify each political subdivision wholly or partially within the county or St. Louis City of the change in valuation **of each subclass of real property, individually, and personal property, in the aggregate**, exclusive of new construction and improvements. All political subdivisions shall immediately revise the **applicable** rates of levy for each purpose **for each subclass of real property, individually, and personal property, in the aggregate**, for which taxes are levied to the extent necessary to produce from all taxable property, exclusive of new construction and improvements, substantially the same amount of tax revenue as was produced in the previous year **for each subclass of real property, individually, and personal property, in the aggregate**, except that the rate may not exceed the greater of the rate in effect in the 1984 tax year or the most recent voter-approved rate. **Such tax revenue shall not include any receipts from ad valorem levies on any real property which was assessed by the assessor of a county or city in such previous year but is assessed by the assessor of a county or city in the current year in a different subclass of real property. Where the taxing authority is a school district for the purposes of revising the applicable rates of levy for each subclass of real property, the tax revenues from state-assessed railroad and utility property shall be apportioned and attributed to each subclass of real property based on the percentage of the total assessed valuation of the county that each subclass of real property represents in the current taxable year.** As provided in section 22 of article X of the constitution, a political subdivision may also revise each levy to allow for inflationary assessment growth occurring within the political subdivision. The inflationary growth factor shall be limited to the actual assessment growth [within] **in the aggregate** for the political subdivision, exclusive of new construction and improvements, but not to exceed the consumer price index or five percent, whichever is lower. **Should the tax revenue of a political subdivision from the various tax rates determined in this subsection be different than the tax revenue that would have been determined from a single tax rate as calculated pursuant to the method of calculation in this subsection prior to January 1, 2003, then the political subdivision shall revise the tax rates of those subclasses of real property, individually, and/or personal property, in the aggregate, in which there is a tax rate reduction, pursuant to the provisions of this subsection. Such revision shall yield an amount equal to such difference and shall be apportioned among such subclasses of real property, individually, and/or personal property, in the aggregate, as per the relative tax rate reduction of such subclasses of real property, individually, and/or personal property, in the aggregate.**

3. (1) Where the taxing authority is a school district, it shall be required to revise the rates of levy to the extent necessary to produce from all taxable property, including state-assessed railroad and utility property, which shall be separately estimated in addition to other data required in complying with section 164.011, RSMo, substantially the amount of tax revenue permitted in this section. In the year following tax rate reduction, the tax rate ceiling may be adjusted to offset such district's reduction in the apportionment of state school moneys due to its reduced tax rate. However, in the event any school district, in calculating a tax rate ceiling pursuant to this section, requiring the estimating of effects of state-assessed railroad and utility valuation or loss of state aid, discovers that the estimates used result in receipt of excess revenues, which would have required a lower rate if the actual information had been known, the school district shall reduce the tax rate ceiling in the following year to compensate for the excess receipts, and the recalculated rate shall become the tax rate ceiling for purposes of this section.

(2) For any political subdivision which experiences a reduction in the amount of assessed valuation relating to a prior year, due to decisions of the state tax commission or a court pursuant to sections 138.430 to 138.433, RSMo, or due to clerical errors or corrections in the calculation or recordation of any assessed valuation:

(a) Such political subdivision may revise the tax rate ceiling for each purpose it levies taxes to compensate for the reduction in assessed value occurring after the political subdivision calculated the tax rate ceiling **for the particular subclass of real property or for personal property, in the aggregate**, in the prior year. Such revision by the political subdivision shall be made at the time of the next calculation of the tax rate **for the particular subclass of real property or for personal property, in the aggregate**, after the reduction in assessed valuation has been determined and shall be calculated in a manner that results in the revised tax rate ceiling being the same as it would have been had the corrected or finalized assessment been available at the time of the prior calculation;

(b) In addition, for up to three years following the determination of the reduction in assessed valuation as a result of circumstances defined in this subdivision, such political subdivision may levy a tax rate for each purpose it levies taxes above the revised tax rate ceiling provided in paragraph (a) of this subdivision to recoup any revenues it was entitled to receive for the three-year period preceding such determination.

4. (1) In order to implement the provisions of this section and section 22 of article X of the Constitution of Missouri, the term "improvements" shall apply to both real and personal property. In order to determine the value of new construction and improvements, each county assessor shall maintain a record of real property valuations in such a manner as to identify each year the increase in valuation for each political subdivision in the county as a result of new construction and improvements. The value of new construction and improvements shall include the additional assessed value of all improvements or additions to real property which were begun after and were not part of the prior year's assessment, except that the additional assessed value of all improvements or additions to real property which had been totally or partially exempt from ad valorem taxes pursuant to sections 99.800 to 99.865, RSMo, sections 135.200 to 135.255, RSMo, and section 353.110, RSMo, shall be included in the value of new construction and improvements when the property becomes totally or partially subject to assessment and payment of all ad valorem taxes. The aggregate increase in valuation of personal property for the current year over that of the previous year is the equivalent of the new construction and improvements factor for personal property. The assessor shall certify the amount of new construction and improvements for each political subdivision to the county clerk in order that political subdivisions shall have this information for the purpose of calculating tax rates pursuant to this section and section 22, article X, Constitution of Missouri. In addition, the state tax commission shall certify each year to each county clerk the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor publications, as defined and officially reported by the United States Department of Labor, or its successor agency. The state tax commission shall certify the increase in such index on the latest

twelve-month basis available on June first of each year over the immediately preceding prior twelve-month period in order that political subdivisions shall have this information available in setting their tax rates according to law and section 22 of article X of the Constitution of Missouri. For purposes of implementing the provisions of this section and section 22 of article X of the Missouri Constitution, the term "property" means all taxable property, including state assessed property.

(2) Each political subdivision required to revise rates of levy pursuant to this section or section 22 of article X of the Constitution of Missouri shall calculate each tax rate it is authorized to levy and, in establishing each tax rate, shall consider each provision for tax rate revision provided in this section and section 22 of article X of the Constitution of Missouri, separately and without regard to annual tax rate reductions provided in section 67.505, RSMo, and section 164.013, RSMo. Each political subdivision shall set each tax rate it is authorized to levy using the calculation that produces the lowest tax rate ceiling. It is further the intent of the general assembly, pursuant to the authority of section 10(c) of article X of the Constitution of Missouri, that the provisions of such section be applicable to tax rate revisions mandated pursuant to section 22 of article X of the Constitution of Missouri as to reestablishing tax rates as revised in subsequent years, enforcement provisions, and other provisions not in conflict with section 22 of article X of the Constitution of Missouri. Annual tax rate reductions provided in section 67.505, RSMo, and section 164.013, RSMo, shall be applied to the tax rate as established pursuant to this section and section 22 of article X of the Constitution of Missouri, unless otherwise provided by law.

5. (1) In all political subdivisions, the tax rate ceiling established pursuant to this section shall not be increased unless approved by a vote of the people. Approval of the higher tax rate shall be by at least a majority of votes cast. When a proposed higher tax rate requires approval by more than a simple majority pursuant to any provision of law or the constitution, the tax rate increase must receive approval by at least the majority required.

(2) When voters approve an increase in the tax rate, the amount of the increase shall be added to the tax rate ceiling as calculated pursuant to this section to the extent the total rate does not exceed any maximum rate prescribed by law. If a ballot question presents a stated tax rate for approval rather than describing the amount of increase in the question, the stated tax rate approved shall be the current tax rate ceiling. The increased tax rate ceiling as approved may be applied to the total assessed valuation of the political subdivision at the setting of the next tax rate.

(3) The governing body of any political subdivision may levy a tax rate lower than its tax rate ceiling and may increase that lowered tax rate to a level not exceeding the tax rate ceiling without voter approval.

(4) In a year of general reassessment, a governing body whose tax rate is lower than its tax rate ceiling shall revise its tax rate pursuant to the provisions of subsection 4 of this section as if its tax rate were at the tax rate ceiling. In a year following general reassessment, if such governing body intends to increase its tax rate, the governing body shall conduct a public hearing, and in a public meeting it shall adopt an ordinance, resolution or policy statement justifying its action prior to setting and certifying its tax rate. The provisions of this subdivision shall not apply to a taxing jurisdiction which receives some portion of its funding pursuant to chapter 163, RSMo.

6. (1) For the purposes of calculating state aid for public schools pursuant to section 163.031, RSMo, each taxing authority which is a school district shall determine its proposed tax rate as a blended rate of the classes or subclasses of property. Such blended rate shall be calculated by first determining the total tax revenue of the property within the jurisdiction of the taxing authority, which amount shall be equal to the sum of the products of multiplying the assessed valuation of each class and subclass of property by the corresponding tax rate for such class or subclass, then dividing the total tax revenue by the total assessed valuation of the same jurisdiction, and then multiplying the resulting

quotient by a factor of one-hundred. Where the taxing authority is a school district, such blended rate shall also be used by such school district for calculating revenue from state-assessed railroad and utility property as defined in chapter 151, RSMo, and for apportioning the tax rate by purpose.

(2) Each taxing authority proposing to levy a tax rate in any year shall notify the clerk of the county commission in the county or counties where the tax rate applies of its tax rate ceiling and its proposed tax rate. Each taxing authority shall express its proposed tax rate in a fraction equal to the nearest [one/one hundredth] **one-tenth of a cent, unless its proposed tax rate is in excess of one dollar, then one/one-hundredth** of a cent. **If a taxing authority shall round to one/one-hundredth of a cent, it shall round up a fraction greater than or equal to [five/one thousandth] five/one-thousandth of one cent to the next higher [one/one hundredth] one/one-hundredth of a cent; if a taxing authority shall round to one-tenth of a cent, it shall round up a fraction greater than or equal to five/one-hundredths of a cent to the next higher one-tenth of a cent.** Any taxing authority levying a property tax rate shall provide data, in such form as shall be prescribed by the state auditor by rule, substantiating such tax rate complies with Missouri law. In addition, each taxing authority proposing to levy a tax rate for debt service shall provide data, in such form as shall be prescribed by the state auditor by rule, substantiating the tax rate for debt service complies with Missouri law. A tax rate proposed for annual debt service requirements will be prima facie valid if, after making the payment for which the tax was levied, bonds remain outstanding and the debt fund reserves do not exceed the following year's payments. The county clerk shall keep on file and available for public inspection all such information for a period of three years. The clerk shall, within three days of receipt, forward a copy of the notice of a taxing authority's tax rate ceiling and proposed tax rate and any substantiating data to the state auditor. The state auditor shall, within fifteen days of the date of receipt, examine such information and return to the county clerk his or her findings as to compliance of the tax rate ceiling with this section and as to compliance of any proposed tax rate for debt service with Missouri law. If the state auditor believes that a taxing authority's proposed tax rate does not comply with Missouri law, then the state auditor's findings shall include a recalculated tax rate, and the state auditor may request a taxing authority to submit documentation supporting such taxing authority's proposed tax rate. The county clerk shall immediately forward a copy of the auditor's findings to the taxing authority and shall file a copy of the findings with the information received from the taxing authority. The taxing authority shall have fifteen days from the date of receipt from the county clerk of the state auditor's findings and any request for supporting documentation to accept or reject in writing the rate change certified by the state auditor and to submit all requested information to the state auditor. A copy of the taxing authority's acceptance or rejection and any information submitted to the state auditor shall also be mailed to the county clerk. If a taxing authority rejects a rate change certified by the state auditor and the state auditor does not receive supporting information which justifies the taxing authority's original or any subsequent proposed tax rate, then the state auditor shall refer the perceived violations of such taxing authority to the attorney general's office and the attorney general is authorized to obtain injunctive relief to prevent the taxing authority from levying a violative tax rate.

7. No tax rate shall be extended on the tax rolls by the county clerk unless the political subdivision has complied with the foregoing provisions of this section.

8. Whenever a taxpayer has cause to believe that a taxing authority has not complied with the provisions of this section, the taxpayer may make a formal complaint with the prosecuting attorney of the county. Where the prosecuting attorney fails to bring an action within ten days of the filing of the complaint, the taxpayer may bring a civil action pursuant to this section and institute an action as representative of a class of all taxpayers within a taxing authority if the class is so numerous that joinder of all members is impracticable, if there are questions of law or fact common to the class, if the claims or defenses of the representative parties are typical of the claims or defenses of the class, and if the representative parties will fairly and adequately protect

the interests of the class. In any class action maintained pursuant to this section, the court may direct to the members of the class a notice to be published at least once each week for four consecutive weeks in a newspaper of general circulation published in the county where the civil action is commenced and in other counties within the jurisdiction of a taxing authority. The notice shall advise each member that the court will exclude him or her from the class if he or she so requests by a specified date, that the judgment, whether favorable or not, will include all members who do not request exclusion, and that any member who does not request exclusion may, if he or she desires, enter an appearance. In any class action brought pursuant to this section, the court, in addition to the relief requested, shall assess against the taxing authority found to be in violation of this section the reasonable costs of bringing the action, including reasonable attorney's fees, provided no attorney's fees shall be awarded any attorney or association of attorneys who receive public funds from any source for their services. Any action brought pursuant to this section shall be set for hearing as soon as practicable after the cause is at issue.

9. If in any action, including a class action, the court issues an order requiring a taxing authority to revise the tax rates as provided in this section or enjoins a taxing authority from the collection of a tax because of its failure to revise the rate of levy as provided in this section, any taxpayer paying his or her taxes when an improper rate is applied has erroneously paid his or her taxes in part, whether or not the taxes are paid under protest as provided in section 139.031, RSMo. The part of the taxes paid erroneously is the difference in the amount produced by the original levy and the amount produced by the revised levy. The township or county collector of taxes or the collector of taxes in any city shall refund the amount of the tax erroneously paid. The taxing authority refusing to revise the rate of levy as provided in this section shall make available to the collector all funds necessary to make refunds pursuant to this subsection. No taxpayer shall receive any interest on any money erroneously paid by him or her pursuant to this subsection. Effective in the 1994 tax year, nothing in this section shall be construed to require a taxing authority to refund any tax erroneously paid prior to or during the third tax year preceding the current tax year.

10. A taxing authority, including but not limited to a township, county collector, or collector of taxes, responsible for determining and collecting the amount of residential real property tax levied in its jurisdiction, shall report such amount of tax collected by December thirty-first of each year such property is assessed, to the state tax commission. The state tax commission shall compile the tax data by county or taxing jurisdiction and submit a report to the general assembly no later than January thirty-first of the following year.

137.115. REAL AND PERSONAL PROPERTY, ASSESSMENT — MAINTENANCE PLAN — ASSESSOR MAY MAIL FORMS FOR PERSONAL PROPERTY — CLASSES OF PROPERTY, ASSESSMENT — PHYSICAL INSPECTION REQUIRED, WHEN, PROCEDURE. — 1. All other laws to the contrary notwithstanding, the assessor or the assessor's deputies in all counties of this state including the city of St. Louis shall annually make a list of all real and tangible personal property taxable in the assessor's city, county, town or district. Except as otherwise provided in subsection 3 of this section, the assessor shall annually assess all personal property at thirty-three and one-third percent of its true value in money as of January first of each calendar year. The assessor shall annually assess all real property, including any new construction and improvements to real property, and possessory interests in real property at the percent of its true value in money set in subsection 5 of this section. The assessor shall annually assess all real property in the following manner: new assessed values shall be determined as of January first of each odd-numbered year and shall be entered in the assessor's books; those same assessed values shall apply in the following even-numbered year, except for new construction and property improvements which shall be valued as though they had been completed as of January first of the preceding odd-numbered year. The assessor may call at the office, place of doing business, or residence of each person required by this chapter to list property, and require the person to make a correct

statement of all taxable real property in the county owned by the person, or under his or her care, charge or management, and all taxable tangible personal property owned by the person or under his or her care, charge or management, taxable in the county. On or before January first of each even-numbered year, the assessor shall prepare and submit a two-year assessment maintenance plan to the county governing body and the state tax commission for their respective approval or modification. The county governing body shall approve and forward such plan or its alternative to the plan to the state tax commission by February first. If the county governing body fails to forward the plan or its alternative to the plan to the state tax commission by February first, the assessor's plan shall be considered approved by the county governing body. If the state tax commission fails to approve a plan and if the state tax commission and the assessor and the governing body of the county involved are unable to resolve the differences, in order to receive state cost-share funds outlined in section 137.750, the county or the assessor shall petition the administrative hearing commission, by May first, to decide all matters in dispute regarding the assessment maintenance plan. Upon agreement of the parties, the matter may be stayed while the parties proceed with mediation or arbitration upon terms agreed to by the parties. The final decision of the administrative hearing commission shall be subject to judicial review in the circuit court of the county involved. In the event a valuation of subclass (1) real property within any county of the first classification with a charter form of government, or within a city not within a county, is made by a computer, computer-assisted method or a computer program, the burden of proof, supported by clear, convincing and cogent evidence to sustain such valuation, shall be on the assessor at any hearing or appeal. In any such county, unless the assessor proves otherwise, there shall be a presumption that the assessment was made by a computer, computer-assisted method or a computer program. Such evidence shall include, but shall not be limited to, the following:

(1) The findings of the assessor based on an appraisal of the property by generally accepted appraisal techniques; and

(2) The purchase prices from sales of at least three comparable properties and the address or location thereof. As used in this paragraph, the word "comparable" means that:

(a) Such sale was closed at a date relevant to the property valuation; and

(b) Such properties are not more than one mile from the site of the disputed property, except where no similar properties exist within one mile of the disputed property, the nearest comparable property shall be used. Such property shall be within five hundred square feet in size of the disputed property, and resemble the disputed property in age, floor plan, number of rooms, and other relevant characteristics.

2. Assessors in each county of this state and the city of St. Louis may send personal property assessment forms through the mail.

3. The following items of personal property shall each constitute separate subclasses of tangible personal property and shall be assessed and valued for the purposes of taxation at the following percents of their true value in money:

(1) Grain and other agricultural crops in an unmanufactured condition, one-half of one percent;

(2) Livestock, twelve percent;

(3) Farm machinery, twelve percent;

(4) Motor vehicles which are eligible for registration as and are registered as historic motor vehicles pursuant to section 301.131, RSMo, and aircraft which are at least twenty-five years old and which are used solely for noncommercial purposes and are operated less than fifty hours per year or aircraft that are home built from a kit, five percent;

(5) Poultry, twelve percent; and

(6) Tools and equipment used for pollution control and tools and equipment used in retooling for the purpose of introducing new product lines or used for making improvements to existing products by any company which is located in a state enterprise zone and which is

identified by any standard industrial classification number cited in subdivision (6) of section 135.200, RSMo, twenty-five percent.

4. The person listing the property shall enter a true and correct statement of the property, in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered to the assessor.

5. All subclasses of real property, as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, shall be assessed at the following percentages of true value:

- (1) For real property in subclass (1), nineteen percent;
- (2) For real property in subclass (2), twelve percent; and
- (3) For real property in subclass (3), thirty-two percent.

6. Manufactured homes, as defined in section 700.010, RSMo, which are actually used as dwelling units shall be assessed at the same percentage of true value as residential real property for the purpose of taxation. The percentage of assessment of true value for such manufactured homes shall be the same as for residential real property. If the county collector cannot identify or find the manufactured home when attempting to attach the manufactured home for payment of taxes owed by the manufactured home owner, the county collector may request the county commission to have the manufactured home removed from the tax books, and such request shall be granted within thirty days after the request is made; however, the removal from the tax books does not remove the tax lien on the manufactured home if it is later identified or found. A manufactured home located in a manufactured home rental park, rental community or on real estate not owned by the manufactured home owner shall be considered personal property. A manufactured home located on real estate owned by the manufactured home owner may be considered real property.

7. Each manufactured home assessed shall be considered a parcel for the purpose of reimbursement pursuant to section 137.750, unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, and assessed as a realty improvement to the existing real estate parcel.

8. Any amount of tax due and owing based on the assessment of a manufactured home shall be included on the personal property tax statement of the manufactured home owner unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, in which case the amount of tax due and owing on the assessment of the manufactured home as a realty improvement to the existing real estate parcel shall be included on the real property tax statement of the real estate owner.

9. The assessor of each county and each city not within a county shall use the trade-in value published in the October issue of the National Automobile Dealers' Association Official Used Car Guide, or its successor publication, as the recommended guide of information for determining the true value of motor vehicles described in such publication. In the absence of a listing for a particular motor vehicle in such publication, the assessor shall use such information or publications which in the assessor's judgment will fairly estimate the true value in money of the motor vehicle.

10. [If] **Before** the assessor [increases] **may increase** the assessed valuation of any parcel of subclass (1) real property by more than [seventeen] **fifteen** percent since the last assessment, excluding increases due to new construction or improvements, [then] the assessor shall conduct a physical inspection of such property.

11. If a physical inspection is required, pursuant to subsection 10 of this section, the assessor shall notify the property owner of that fact in writing and shall provide the owner clear written notice of the owner's rights relating to the physical inspection. If a physical inspection is required, the property owner may request that an interior inspection be performed during the physical inspection. The owner shall have no less than thirty days to notify the assessor of a request for an interior physical inspection.

12. A physical inspection, as required by subsection 10 of this section, shall include, but not be limited to, an on-site personal observation and review of all exterior portions of the land and any buildings and improvements to which the inspector has or may reasonably and lawfully gain external access, and shall include an observation and review of the interior of any buildings or improvements on the property upon the timely request of the owner pursuant to subsection 11 of this section. Mere observation of the property via a "drive-by inspection" or the like shall not be considered sufficient to constitute a physical inspection as required by this section.

13. A county or city collector may accept credit cards as proper form of payment of outstanding property tax due. No county or city collector may charge surcharge for payment by credit card which exceeds the fee or surcharge charged by the credit card bank for its service.

14. The provisions of sections 137.073, 137.115, 138.060 and 138.100 of this act shall become effective January 1, 2003 for any taxing jurisdiction which is partly or entirely within a county with a charter form of government with greater than one million inhabitants, and the provisions of sections 137.073, 137.115, 138.060 and 138.100 of this act shall become effective January 1, 2005 for all taxing jurisdictions in this state. Any county in this state may, by an affirmative vote of the governing body of such county, opt into the provisions of this act prior to January 1, 2005.

138.060. APPEALS FROM ASSESSOR'S VALUATION, NO PRESUMPTION THAT VALUATION IS CORRECT, BURDEN OF PROOF IN CERTAIN COUNTIES — ERRONEOUS ASSESSMENTS — HEARING, LIMITATION ON ASSESSOR'S TESTIMONY OF EVALUATION. — 1. The county board of equalization shall, in a summary way, determine all appeals from the valuation of property made by the assessor, and shall correct and adjust the assessment accordingly. There shall be no presumption that the assessor's valuation is correct. **In any county with a charter form of government with a population greater than two hundred eighty thousand inhabitants but less than two hundred eighty-five thousand inhabitants, and in any county with a charter form of government with greater than one million inhabitants, and in any city not within a county, the assessor shall have the burden to prove that the assessor's valuation does not exceed the true market value of the subject property. In such county or city, in the event a physical inspection of the subject property is required by subsection 10 of section 137.115, RSMo, the assessor shall have the burden to establish the manner in which the physical inspection was performed and shall have the burden to prove that the physical inspection was performed in accordance with section 137.115, RSMo. In such county or city, in the event the assessor fails to provide sufficient evidence to establish that the physical inspection was performed in accordance with section 137.115, RSMo, the property owner shall prevail on the appeal as a matter of law.** At any hearing before the state tax commission or a court of competent jurisdiction of an appeal of assessment from a first class charter county or a city not within a county, the assessor shall not advocate nor present evidence advocating a valuation higher than that value finally determined by the assessor or the value determined by the board of equalization, whichever is higher, for that assessment period.

2. The county clerk shall keep an accurate record of the proceedings and orders of the board, and the assessor shall correct all erroneous assessments, and the clerk shall adjust the tax book according to the orders of such board and the orders of the state tax commission, except that in adding or deducting such percent to each tract or parcel of real estate as required by such board or state tax commission, he shall add or deduct in each case any fractional sum of less than fifty cents, so that the value of any separate tract shall contain no fractions of a dollar.

138.100. RULES — HEARINGS (COUNTIES OF THE FIRST CLASSIFICATION). — 1. The following rules shall be observed by such county boards of equalization:

(1) They shall raise the valuation of all tracts or parcels of land and all tangible personal property as in their opinion have been returned below their real value; but, after the board has raised the valuation of such property, notice shall be given that said valuation of such property has been increased and a hearing shall be granted; such notice shall be in writing and shall be directed to the owner of the property or the person controlling the same, at his last address as shown by the records in the assessor's office, and shall describe the property and the value thereof as increased; such notice may be by personal service or by mail and if the address of such person or persons is unknown, notice may be given by publication in two newspapers published within the county; such notice shall be served, mailed or published at least five days prior to the date on which said hearing shall be held at which objections, if any, may be made against said increased assessment;

(2) They shall reduce the valuation of such tracts or parcels of land or of any tangible personal property which, in their opinion, has been returned above its true value as compared with the average valuation of all the real and tangible personal property of the county.

2. Such hearings shall end on the last Saturday of July of each year; provided, that the estimated true value of personal property as shown on any itemized personal property return shall not be conclusive on the assessor or prevent the assessor from increasing such valuation. Provided further that said board of equalization shall meet thereafter at least once a month for the purpose of hearing allegations of erroneous assessments, double assessments and clerical errors, and upon satisfactory proof thereof shall correct such errors and certify the same to the county clerk and county collector.

3. The board of equalization in all counties with a charter form of government shall provide the taxpayer with written findings of fact and a written basis for the board's decision regarding any parcel of real property which is the subject of a hearing before any board of equalization.

144.1000. CITATION OF ACT. — Sections 144.1000 to 144.1015 shall be known as and referred to as the "Simplified Sales and Use Tax Administration Act".

144.1003. DEFINITIONS. — As used in sections 144.1000 to 144.1015, the following terms shall mean:

- (1) "Agreement", the Streamlined Sales and Use Tax Agreement;
- (2) "Certified automated system", software certified jointly by the states that are signatories to the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state and maintain a record of the transaction;
- (3) "Certified service provider", an agent certified jointly by the states that are signatories to the agreement to perform all of the seller's sales tax functions;
- (4) "Person", an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation or any other legal entity;
- (5) "Sales tax", any sales tax levied pursuant to this chapter, section 32.085, RSMo, or any other sales tax authorized by statute and levied by this state or its political subdivisions;
- (6) "Seller", any person making sales, leases or rentals of personal property or services;
- (7) "State", any state of the United States and the District of Columbia;
- (8) "Use tax", the use tax levied pursuant to this chapter.

144.1006. MULTISTATE DISCUSSIONS PERMITTED, STATE REPRESENTATION, DUTIES. — For the purposes of reviewing and, if necessary, amending the agreement embodying the simplification recommendations contained in section 144.1015, the state may enter into multistate discussions. For purposes of such discussions, the state shall be represented by

seven delegates, one of whom shall be appointed by the governor, two members appointed by the speaker of the house of representatives, one member appointed by the minority leader of the house of representatives, two members appointed by the president pro tempore of the senate and one member appointed by the minority leader of the senate. The delegates need not be members of the general assembly and at least one of the delegates appointed by the speaker of the house of representatives and one member appointed by the president pro tempore of the senate shall be from the private sector and represent the interests of Missouri businesses. The delegates shall recommend to the committees responsible for reviewing tax issues in the senate and the house of representatives each year any amendment of state statutes required to be substantially in compliance with the agreement. Such delegates shall make a written report by the fifteenth day of January each year regarding the status of the multistate discussions and upon final adoption of the terms of the sales and use tax agreement by the multistate body.

144.1009. AGREEMENTS NOT TO INVALIDATE OR AMEND STATE LAW — ACTION OF GENERAL ASSEMBLY REQUIRED FOR IMPLEMENTATION OF CONDITIONS, PROCEDURE. — No provision of the agreement authorized by sections 144.1000 to 144.1015 in whole or in part invalidates or amends any provision of the law of this state. Implementation of any condition of this agreement in this state, whether adopted before, at, or after membership of this state in the agreement, must be by action of the general assembly. Such report shall be delivered to the governor, the secretary of state, the president pro tempore of the senate and the speaker of the house of representatives and shall simultaneously be made publicly available by the secretary of state to any person requesting a copy.

144.1012. ELEMENTS OF AGREEMENT, NUMBER OF DELEGATES NECESSARY TO ENTER INTO. — Unless five of the seven delegates agree, the delegates shall not enter into or vote for any streamlined sales and use tax agreement that:

- (1) Requires adoption of a definition of any term that would cause any item or transaction that is now excluded or exempted from sales or use tax to become subject to sales or use tax;
- (2) Requires the state of Missouri to fully exempt or fully apply sales taxes to the sale of food or any other item;
- (3) Restricts the ability of local governments under statutes in effect on August 28, 2002, to enact one or more local taxes on one or more items without application of the tax to all sales within the taxing jurisdiction, however, restriction of any such taxes allowed by statutes effective after August 28, 2002, may be supported;
- (4) Provides for adoption of any uniform rate structure that would result in a tax increase for any Missouri taxpayer;
- (5) Affects the sourcing of sales tax transactions; or
- (6) Prohibits limitations or thresholds on the application of sales and use tax rates or prohibits any current sales or use tax exemption in the state of Missouri, including exemptions that are based on the value of the transaction or item.

144.1015. FEATURES OF AGREEMENT TO BE CONSIDERED. — In addition to the requirements of section 144.1012, the delegates should consider the following features when deciding whether or not to enter into any streamlined sales and use tax agreement:

- (1) The agreement should address the limitation of the number of state rates over time;
- (2) The agreement should establish uniform standards for administration of exempt sales and the form used for filing sales and use tax returns and remittances;

(3) The agreement should require the state to provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states;

(4) The agreement should provide that registration with the central registration system and the collection of sales and use taxes in the signatory states will not be used as a factor in determining whether the seller has nexus with a state for any tax;

(5) The agreement should provide for reduction of the burdens of complying with local sales and use taxes through the following so long as they do not conflict with the provisions of section 144.1012:

(a) Restricting variances between the state and local tax bases;

(b) Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions;

(c) Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes; and

(d) Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions;

(6) The agreement should outline any monetary allowances that are to be provided by the states to sellers or certified service providers. The agreement must allow for a joint public and private sector study of the compliance cost on sellers and certified service providers to collect sales and use taxes for state and local governments under various levels of complexity to be completed by July 1, 2003;

(7) The agreement should require each state to certify compliance with the terms of the agreement prior to joining and to maintain compliance, under the laws of the member state, with all provisions of the agreement while a member, only if the agreement and any amendment thereto complies with the provisions of section 144.1012;

(8) The agreement should require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information; and

(9) The agreement should provide for the appointment of an advisory council of private sector representatives and an advisory council of nonmember state representatives to consult with in the administration of the agreement.

620.012. ATTORNEY GENERAL TO REVIEW TAX ABATEMENT AGREEMENTS, PROCEDURE — TERMINATION DATE. — 1. Notwithstanding any other provision of law, before the director of revenue enters into any agreement to abate all or part of a taxpayer's liability to the state, including interest and additions to tax, the director shall forward a copy of the agreement to the attorney general before entering into such agreement.

2. Upon receiving the proposed agreement, the attorney general shall, within ten days, review and approve such agreement for its legal form and content as may be necessary to protect the legal interest of the state. If the attorney general does not approve, then the attorney general shall return the agreement with additional proposed provisions as may be necessary to the proper enforcement of the agreement as required to protect the state's legal interest. If the attorney general does not respond within ten days, or in the case of any agreement that involves an abatement of the taxpayer's tax liability, including interest and additions to tax, to the state of one million dollars or more, within thirty days, the agreement shall be deemed approved.

3. Communications related to the attorney general's review are attorney-client communications. The attorney general's written disposition shall be subject to chapter 610, RSMo.

4. The provisions of this section shall terminate January 1, 2005.

SECTION 1. REAL AND PERSONAL PROPERTY ASSESSMENT, CERTAIN REQUIREMENTS FOR PHYSICAL INSPECTION APPLICABLE TO ST. LOUIS COUNTY ONLY. — The provisions of subsections 11 and 12 of section 137.115, RSMo, shall only apply in any county with a charter form of government with more than one million inhabitants.

SECTION 2. COUNTY BOARDS OF EQUALIZATION, CERTAIN WRITTEN MATERIALS TO BE PROVIDED IN ST. LOUIS COUNTY ONLY. — The provisions of subsection 3 of section 138.100, RSMo, shall only apply in any county with a charter form of government with more than one million inhabitants.

SECTION B. EMERGENCY CLAUSE. — Because of the immediate need to secure adequate state revenue, this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval, but not before July 1, 2002.

Approved June 14, 2002

HB 1151 [HB 1151]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Corrects an erroneous internal cross-reference in the law on administration of trusts.

AN ACT to repeal section 469.411, RSMo, and to enact in lieu thereof one new section relating to disclaimers of property.

SECTION

A. Enacting clause.

469.411. Determination of unitrust amount — definitions — exclusions to net fair market value of assets — applicability of section to certain trusts.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 469.411, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 469.411, to read as follows:

469.411. DETERMINATION OF UNITRUST AMOUNT — DEFINITIONS — EXCLUSIONS TO NET FAIR MARKET VALUE OF ASSETS — APPLICABILITY OF SECTION TO CERTAIN TRUSTS. — 1. If the provisions of this section apply to a trust, the unitrust amount shall be determined as follows:

(1) For the first three accounting periods of the trust, the unitrust amount for a current valuation year of the trust shall be three percent, or any higher percentage specified by the terms of the governing instrument or by the election made in accordance with subdivision (2) of subsection 5 of this section, of the net fair market values of the assets held in the trust on the first business day of the current valuation year;

(2) Beginning with the fourth accounting period of the trust, the unitrust amount for a current valuation year of the trust shall be three percent, or any higher percentage specified by the terms of the governing instrument or by the election made in accordance with subdivision (2) of subsection 5 of this section, of the average of the net fair market values of the assets held in the trust on the first business day of the current valuation year and the net fair market values of the assets held in the trust on the first business day of each prior valuation year;

(3) The unitrust amount for the current valuation year computed pursuant to subdivision (1) or (2) of this subsection shall be proportionately reduced for any distributions, in whole or in part, other than distributions of the unitrust amount, and for any payments of expenses, including debts, disbursements and taxes, from the trust within a current valuation year that the trustee determines to be material and substantial, and shall be proportionately increased for the receipt, other than a receipt that represents a return on investment, of any additional property into the trust within a current valuation year;

(4) For purposes of subdivision (2) of this subsection, the net fair market values of the assets held in the trust on the first business day of a prior valuation year shall be adjusted to reflect any reduction, in the case of a distribution or payment, or increase, in the case of a receipt, for the prior valuation year pursuant to subdivision (3) of this subsection, as if the distribution, payment or receipt had occurred on the first day of the prior valuation year;

(5) In the case of a short accounting period, the trustee shall prorate the unitrust amount on a daily basis;

(6) In the case where the net fair market value of an asset held in the trust has been incorrectly determined either in a current valuation year or in a prior valuation year, the unitrust amount shall be increased in the case of an undervaluation, or be decreased in the case of an overvaluation, by an amount equal to the difference between the unitrust amount determined based on the correct valuation of the asset and the unitrust amount originally determined.

2. As used in this section, the following terms mean:

(1) "Current valuation year", the accounting period of the trust for which the unitrust amount is being determined;

(2) "Prior valuation year", each of the two accounting periods of the trust immediately preceding the current valuation year.

3. In determining the sum of the net fair market values of the assets held in the trust for purposes of subdivisions (1) and (2) of subsection 1 of this section, there shall not be included the value of:

(1) Any residential property or any tangible personal property that, as of the first business day of the current valuation year, one or more income beneficiaries of the trust have or had the right to occupy, or have or had the right to possess or control, other than in a capacity as trustee, and instead the right of occupancy or the right to possession or control shall be deemed to be the unitrust amount with respect to the residential property or the tangible personal property; or

(2) Any asset specifically given to a beneficiary under the terms of the trust and the return on investment on that asset, which return on investment shall be distributable to the beneficiary.

4. In determining the net fair market value of each asset held in the trust pursuant to subdivisions (1) and (2) of subsection 1 of this section, the trustee shall, not less often than annually, determine the fair market value of each asset of the trust that consists primarily of real property or other property that is not traded on a regular basis in an active market by appraisal or other reasonable method or estimate, and that determination, if made reasonably and in good faith, shall be conclusive as to all persons interested in the trust. Any claim based on a determination made pursuant to this subsection shall be barred if not asserted in a judicial proceeding brought by any beneficiary with any interest whatsoever in the trust within two years after the trustee has sent a report to all qualified beneficiaries that adequately discloses the facts constituting the claim. The rules set forth in subsection 2 of section 469.409 shall apply to the barring of claims pursuant to this subsection.

5. This section shall apply to the following trusts:

(1) Any trust created after August 28, 2001, with respect to which the terms of the trust clearly manifest an intent that this section apply;

(2) Any trust created under an instrument that became irrevocable on or before August 28, 2001, if the trustee, in the trustee's discretion, elects to have this section apply two years from August 28, 2001, unless the instrument creating the trust provides otherwise. The trustee shall deliver notice to all qualified beneficiaries and the settlor of the trust, if he or she is then living, of the trustee's intent to make such an election at least sixty days before making that election. The trustee shall have sole authority to make the election. Delivery of the notice to a person with respect to whom, pursuant to subdivision (2) of section 472.300, RSMo, an order would bind a beneficiary of the trust is delivery of notice to that beneficiary for all purposes of this subsection. An action or order by any court shall not be required. The election shall be made by a signed writing delivered to the settlor of the trust, if he or she is then living, and to all qualified beneficiaries. The election is irrevocable, unless revoked by order of the court having jurisdiction of the trust. The election may specify the percentage used to determine the unitrust amount pursuant to this section, provided that such percentage is three percent or greater, or if no percentage is specified, then that percentage shall be three percent. In making an election pursuant to this subsection, the trustee shall be subject to the same limitations and conditions as apply to an adjustment between income and principal pursuant to subsections 3 and 4 of section [469.409] **469.405**;

(3) No action of any kind based on an election made or not made by a trustee pursuant to subdivision (2) of this subsection shall be brought against the trustee by any beneficiary of that trust three years from August 28, 2001.

Approved July 10, 2002

HB 1196 [SS SCS HB 1196]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises the amount of appropriations from the State Highways and Transportation Department Fund for certain entities, excluding the State Highway Patrol.

AN ACT to repeal sections 136.055, 142.803, 144.805, 155.080, 226.200, 226.540, 226.550, 226.573, 226.580, 226.585, 227.100 and 305.230, RSMo, relating to funding for transportation, and to enact in lieu thereof thirteen new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 136.055. Agent to collect motor vehicle taxes and issue licenses — fees — sign required.
- 142.803. Imposition of tax on fuel, amount — collection and precollection of tax.
- 144.805. Aviation jet fuel sold to common carriers in interstate transporting or storage exempt from all sales and use tax, when — qualification, procedure — common carrier to make direct payment to revenue — tax revenues to be deposited in aviation trust fund — expires when.
- 155.080. Use tax on aviation fuel — amount — collection — refunds.
- 226.200. State highways and transportation department fund — sources of revenue — expenditures.
- 226.540. Signs permitted on certain highways — lighting restrictions — size, location — zones — specifications.
- 226.550. Permits, fees for, exemption — permits to be issued for existing signs, exceptions — biennial inspection fees, collection, deposit, exceptions — permit to erect sign lapses, when.
- 226.573. Rulemaking — new technology in outdoor advertising.
- 226.580. Unlawful signs defined — removal authorized — notice — owner may proceed, how — removal costs, how paid — review of order, how — order of removal — reimbursement to owner, when.
- 226.585. Vegetation along right-of-way, cutting of — transportation department, duties.
- 227.100. Publication of notices, where — construction bids — rejection — bond required.

- 227.107. Design-build project contracts permitted, limitations, definitions — written procedures required — submission of detailed disadvantaged business enterprise participation plan — bid process — rulemaking authority — status report to general assembly — cost estimates to be published.
- 305.230. Aeronautics program, highways and transportation commission to administer — purposes — aviation trust fund, administration, uses — appropriation — immediate availability of funds in the event of a disaster.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 136.055, 142.803, 144.805, 155.080, 226.200, 226.540, 226.550, 226.573, 226.580, 226.585, 227.100 and 305.230, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 136.055, 142.803, 144.805, 155.080, 226.200, 226.540, 226.550, 226.573, 226.580, 226.585, 227.100, 227.107 and 305.230, to read as follows:

136.055. AGENT TO COLLECT MOTOR VEHICLE TAXES AND ISSUE LICENSES — FEES — SIGN REQUIRED. — 1. Any person who is selected or appointed by the state director of revenue to act as an agent of the department of revenue, whose duties shall be the sale of motor vehicle licenses and the collection of motor vehicle sales and use taxes under the provisions of section 144.440, RSMo, and who receives no salary from the department of revenue, shall be authorized to collect from the party requiring such services additional fees as compensation in full and for all services rendered on the following basis:

(1) For each motor vehicle or trailer license sold, renewed or transferred — two dollars and fifty cents beginning January 1, 1998; and four dollars beginning July 1, 2000; **and five dollars beginning August 28, 2002**, for those licenses biennially renewed pursuant to section 301.147, RSMo. **Beginning July 1, 2003, for each motor vehicle or trailer license sold, renewed or transferred — three dollars and fifty cents and seven dollars for those licenses sold or biennially renewed pursuant to section 301.147, RSMo;**

(2) For each application or transfer of title — two dollars and fifty cents beginning January 1, 1998;

(3) For each chauffeur's, operator's or driver's license — two dollars and fifty cents beginning January 1, 1998; and four dollars beginning July 1, 2000; **and five dollars beginning July 1, 2003**, for six-year licenses issued or renewed;

(4) For each notice of lien processed — two dollars and fifty cents beginning August 28, 2000;

(5) No notary fee or other fee or additional charge shall be paid or collected except for electronic telephone transmission reception — two dollars.

2. This section shall not apply to agents appointed by the state director of revenue in any city, other than a city not within a county, where the department of revenue maintains an office. All fees charged shall not exceed those in this section. **Beginning July 1, 2003, the fees imposed by this section shall be collected by all permanent branch offices and all full-time or temporary offices maintained by the department of revenue.**

3. Any person acting as agent of the department of revenue for the sale and issuance of licenses and other documents related to motor vehicles shall have an insurable interest in all license plates, licenses, tabs, forms and other documents held on behalf of the department.

4. The fee increases authorized by this section and approved by the general assembly were requested by the fee agents. All fee agent offices shall display a three foot by four foot sign with black letters of at least three inches in height on a white background which states:

The increased fees approved by the
Missouri Legislature and charged by
this fee office were requested by the
fee agents.

142.803. IMPOSITION OF TAX ON FUEL, AMOUNT — COLLECTION AND PRECOLLECTION OF TAX. — 1. A tax is levied and imposed on all motor fuel used or consumed in this state as follows:

(1) Motor fuel, seventeen cents per gallon[. Beginning April 1, 2008, the tax rate shall become eleven cents per gallon];

(2) Alternative fuels, not subject to the decal fees as provided in section 142.869, with a power potential equivalent of motor fuel. In the event alternative fuel, which is not commonly sold or measured by the gallon, is used in motor vehicles on the highways of this state, the director is authorized to assess and collect a tax upon such alternative fuel measured by the nearest power potential equivalent to that of one gallon of regular grade gasoline. The determination by the director of the power potential equivalent of such alternative fuel shall be prima facie correct;

(3) Aviation fuel used in propelling aircraft with reciprocating engines, nine cents per gallon as levied and imposed by section 155.080, RSMo, to be collected as required under this chapter.

2. All taxes, surcharges and fees are imposed upon the ultimate consumer, but are to be precollected as described in this chapter, for the facility and convenience of the consumer. The levy and assessment on other persons as specified in this chapter shall be as agents of this state for the precollection of the tax.

144.805. AVIATION JET FUEL SOLD TO COMMON CARRIERS IN INTERSTATE TRANSPORTING OR STORAGE EXEMPT FROM ALL SALES AND USE TAX, WHEN — QUALIFICATION, PROCEDURE — COMMON CARRIER TO MAKE DIRECT PAYMENT TO REVENUE — TAX REVENUES TO BE DEPOSITED IN AVIATION TRUST FUND — EXPIRES WHEN.

— 1. In addition to the exemptions granted pursuant to the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 144.010 to 144.525, sections 144.600 to 144.748, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525, sections 144.600 to 144.748, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, all sales of aviation jet fuel in a given calendar year to common carriers engaged in the interstate air transportation of passengers and cargo, and the storage, use and consumption of such aviation jet fuel by such common carriers, if such common carrier has first paid to the state of Missouri, in accordance with the provisions of this chapter, state sales and use taxes pursuant to the foregoing provisions and applicable to the purchase, storage, use or consumption of such aviation jet fuel in a maximum and aggregate amount of one million five hundred thousand dollars of state sales and use taxes in such calendar year.

2. To qualify for the exemption prescribed in subsection 1 of this section, the common carrier shall furnish to the seller a certificate in writing to the effect that an exemption pursuant to this section is applicable to the aviation jet fuel so purchased, stored, used and consumed. The director of revenue shall permit any such common carrier to enter into a direct-pay agreement with the department of revenue, pursuant to which such common carrier may pay directly to the department of revenue any applicable sales and use taxes on such aviation jet fuel up to the maximum aggregate amount of one million five hundred thousand dollars in each calendar year. The director of revenue shall adopt appropriate rules and regulations to implement the provisions of this section, and to permit appropriate claims for refunds of any excess sales and use taxes collected in calendar year 1993 or any subsequent year with respect to any such common carrier and aviation jet fuel.

3. The provisions of this section shall apply to all purchases and deliveries of aviation jet fuel from and after May 10, 1993.

4. [Effective September 1, 1998,] All sales and use tax revenues upon aviation jet fuel received pursuant to this chapter, less the amounts specifically designated pursuant to the constitution or pursuant to section 144.701, for other purposes, shall be deposited to the credit

of the aviation trust fund established pursuant to section 305.230, RSMo; provided however, the amount of such state sales and use tax revenues deposited to the credit of such aviation trust fund shall not exceed [five] **six** million dollars in each calendar year.

5. The provisions of this section and section 144.807 shall expire on December 31, [2003] **2008**.

155.080. USE TAX ON AVIATION FUEL — AMOUNT — COLLECTION — REFUNDS. — 1.

There is hereby imposed a use tax on each gallon of aviation fuel used in propelling aircraft with reciprocating engines. The tax is imposed at the rate of nine cents per gallon. Such tax is to be collected and remitted to this state or paid to this state in the same manner and method and at the same time as is prescribed by chapter 142, RSMo, for the collection of the motor fuel tax imposed on each gallon of motor fuel used in propelling motor vehicles upon the public highways of Missouri.

2. All applicable provisions contained in chapter 142, RSMo, governing administration, collection and enforcement of the state motor fuel tax shall apply to this section, including but not limited to reporting, penalties and interest.

3. Each commercial agricultural aircraft operator may apply for a refund of the tax it has paid for aviation fuel used in a commercial agricultural aircraft. All such applications for refunds shall be made in accordance with the procedures specified in chapter 142, RSMo, for refunds of motor fuel taxes paid. If any person who is eligible to receive a refund of aviation fuel tax fails to apply for a refund as provided in chapter 142, RSMo, [he makes a gift of his refund to the aviation trust fund] **the refund amount shall be deposited to the credit of the aviation trust fund pursuant to section 305.230, RSMo.**

226.200. STATE HIGHWAYS AND TRANSPORTATION DEPARTMENT FUND — SOURCES OF REVENUE — EXPENDITURES. — 1.

There is hereby created a "State Highways and Transportation Department Fund" into which shall be paid or transferred all state revenue derived from highway users as an incident to their use or right to use the highways of the state, including all state license fees and taxes upon motor vehicles, trailers, and motor vehicle fuels, and upon, with respect to, or on the privilege of the manufacture, receipt, storage, distribution, sale or use thereof (excepting the sales tax on motor vehicles and trailers, and all property taxes), and all other revenue received or held for expenditure by or under the department of transportation or the state highways and transportation commission, except:

- (1) Money arising from the sale of bonds;
- (2) Money received from the United States government; or
- (3) Money received for some particular use or uses other than for the payment of principal and interest on outstanding state road bonds.

2. Subject to the limitations of subsection 3 of this section, from said fund shall be paid or credited the cost:

- (1) Of collection of all said state revenue derived from highway users as an incident to their use or right to use the highways of the state;
- (2) Of maintaining the state highways and transportation commission;
- (3) Of maintaining the state transportation department;
- (4) Of any workers' compensation for state transportation department employees;
- (5) Of the share of the transportation department in any retirement program for state employees, only as may be provided by law; and
- (6) Of administering and enforcing any state motor vehicle laws or traffic regulations.

3. [For all future fiscal years.] **Beginning in fiscal year 2004**, the total amount of appropriations from the state highways and transportation department fund for all state offices and departments, **except for the highway patrol, and actual costs incurred by the office of administration for or on behalf of the highway patrol and employees of the department of transportation**, shall not exceed the total amount appropriated for such offices and

departments from said fund for fiscal year 2001. **Appropriations to the highway patrol from the state highways and transportation department fund shall be made in accordance with article IV, section 30(b) of the Missouri Constitution. Appropriations allocated from the state highways and transportation department fund to the highway patrol shall only be used by the highway patrol to administer and enforce state motor vehicle laws or traffic regulations. Beginning July 1, 2007, any activities or functions conducted by the highway patrol not related to enforcing or administering state motor vehicle laws or traffic regulations shall not be funded by the state highways and transportation department fund, but shall be funded from general revenue or any other applicable source. Any current funding from the highways and transportation department fund used for activities not related to enforcing state motor vehicle laws or traffic regulations shall expire on June 30, 2007. The state auditor shall annually audit and examine the appropriations made to the highway patrol to determine whether such appropriations are actually being used for administering and enforcing state motor vehicle laws and traffic regulations pursuant to the constitution. The state auditor shall submit its annual findings to the general assembly by January fifteenth of each year.**

4. The provisions of subsection 3 of this section shall not apply to appropriations from the state highways and transportation department fund to the highways and transportation commission and the state transportation department or to appropriations to the office of administration for department of transportation employee fringe benefits and OASDHI payments, or to appropriations to the department of revenue for motor vehicle fuel tax refunds under chapter 142, RSMo, or to appropriations to the department of revenue for refunds or overpayments or erroneous payments from the state highways and transportation department fund.

5. All interest earned upon the state highways and transportation department fund shall be deposited in and to the credit of such fund.

6. Any balance remaining in said fund after payment of said costs shall be transferred to the state road fund.

7. Notwithstanding the provisions of subsection 2 of this section to the contrary, any funds raised as a result of increased taxation pursuant to sections 142.025 and 142.372, RSMo, after April 1, 1992, shall not be used for administrative purposes or administrative expenses of the transportation department.

226.540. SIGNS PERMITTED ON CERTAIN HIGHWAYS — LIGHTING RESTRICTIONS — SIZE, LOCATION — ZONES — SPECIFICATIONS. — Notwithstanding any other provisions of sections 226.500 to 226.600, outdoor advertising shall be permitted within six hundred and sixty feet of the nearest edge of the right-of-way of [any interstate or primary highway] **highways located on the interstate, federal-aid primary system as it existed on June 1, 1991, or the national highway system as amended** in areas zoned industrial, commercial or the like and in unzoned commercial and industrial areas as defined in this section, subject to the following regulations which are consistent with customary use in this state:

(1) Lighting:

(a) No revolving or rotating beam or beacon of light that simulates any emergency light or device shall be permitted as part of any sign. No flashing, intermittent, or moving light or lights will be permitted except scoreboards and other illuminated signs designating public service information, such as time, date, or temperature, or similar information, will be allowed; **tri-vision, projection and other changeable message signs shall be allowed subject to Missouri highway and transportation commission regulations;**

(b) External lighting, such as floodlights, thin line and gooseneck reflectors are permitted, provided the light source is directed upon the face of the sign and is effectively shielded so as to prevent beams or rays of light from being directed into any portion of the main traveled way of the federal-aid primary highways as of June 1, 1991, and all highways designated as part of

the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System and the lights are not of such intensity so as to cause glare, impair the vision of the driver of a motor vehicle, or otherwise interfere with a driver's operation of a motor vehicle;

(c) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures, an official traffic sign, device, or signal;

(2) Size of signs:

(a) The maximum area for any one sign shall be eight hundred square feet with a maximum height of thirty feet and a maximum length of seventy-two feet, inclusive of border and trim but excluding the base or apron, supports, and other structural members. The area shall be measured as established **herein and** in rules promulgated by the commission. In determining the size of a **conforming or nonconforming** sign structure, temporary cutouts and extensions installed for the length of a specific display contract shall not be [included in calculating] **considered a substantial increase to** the size of the permanent display; provided the actual square footage of such temporary cutouts or extensions may not exceed thirty-three percent of the permanent display area. **Signs erected in accordance with the provisions of sections 226.500 to 226.600 prior to the effective date of this provision which fail to meet the requirements of this provision shall be deemed legal nonconforming as defined herein;**

(b) The maximum size limitations shall apply to each side of a sign structure, and signs may be placed back to back, double faced, or in V-type construction with not more than two displays to each facing, but such sign structure shall be considered as one sign;

(c) After August 28, 1999, no new sign structure shall be erected in which two or more displays are stacked one above the other. Stacked structures existing on or before August 28, 1999, in accordance with sections 226.500 to 226.600 shall [not] be deemed **legal nonconforming** [for failure to meet the requirements of this section until such sign's structure is modified, repaired, replaced or rebuilt] **and may be maintained in accordance with the provisions sections of 226.500 to 226.600.** Structures displaying more than one display on a horizontal basis shall be allowed, provided that total display areas do not exceed the maximum allowed square footage for a sign structure pursuant to the provisions of paragraph (a) of subdivision (2) of this section;

(3) Spacing of signs:

(a) **On all** interstate highways, [and] freeways [on the] **and nonfreeway** federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System:

a. No sign structure shall be erected within [five hundred] **one thousand four hundred** feet of an existing sign on the same side of the highway;

b. Outside of incorporated municipalities, no structure may be located adjacent to or within five hundred feet of an interchange, intersection at grade, or safety rest area. Such five hundred feet shall be measured from the beginning or ending of the pavement widening at the exit from or entrance to the main traveled way. For purpose of this subparagraph, the term "incorporated municipalities" shall include "urban areas", except that such "urban areas" shall not be considered "incorporated municipalities" if it is finally determined that such would have the effect of making Missouri be in noncompliance with the requirements of Title 23, United States Code, Section 131;

(b) [Nonfreeway federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System:

a. Outside incorporated municipalities, no structure shall be erected within five hundred feet of an existing sign on the same side of the highway. Sign structures existing prior to August 28, 1999, which complied with the requirements of this section when erected shall not be deemed

nonconforming for failure to comply with the spacing provisions of this section until such sign's structure is modified, repaired, replaced or rebuilt;

b. Within incorporated municipalities, no structure shall be erected within five hundred feet of an existing sign. Sign structures existing prior to August 28, 1999, which complied with the requirements of this section when erected shall not be deemed nonconforming for failure to comply with the spacing provisions of this section until such sign's structure is modified, repaired, replaced or rebuilt;

(c)] The spacing between structure provisions of subdivision (3) of this section do not apply to signs which are separated by buildings, natural surroundings, or other obstructions in such manner that only one sign facing located within such distance is visible at any one time. Directional or other official signs or those advertising the sale or lease of the property on which they are located, or those which advertise activities on the property on which they are located, including products sold, shall not be counted, nor shall measurements be made from them for the purpose of compliance with spacing provisions;

[(d)] (c) No sign shall be located in such manner as to obstruct or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device or obstruct or physically interfere with a motor vehicle operator's view of approaching, merging, or intersecting traffic;

[(e)] (d) The measurements in this section shall be the minimum distances between outdoor advertising sign structures measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and shall apply only to outdoor advertising sign structures located on the same side of the highway involved;

(4) As used in this section, the words "unzoned commercial and industrial land" shall be defined as follows: that area not zoned by state or local law or ordinance and on which there is located one or more permanent structures used for a commercial business or industrial activity or on which a commercial or industrial activity is actually conducted together with the area along the highway extending outwardly [six hundred] **seven hundred fifty** feet from and beyond the edge of such activity. All measurements shall be from the outer edges of the regularly used improvements, buildings, parking lots, landscaped, storage or processing areas of the commercial or industrial activity and along and parallel to the edge of the pavement of the highway. [On nonfreeway federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System, where there is an unzoned commercial or industrial area on one side of the road as described in this section, the term "unzoned commercial or industrial land" shall also include those lands directly opposite on the other side of the highway to the extent of the same dimensions.] Unzoned land shall not include:

(a) Land on the opposite side of [an interstate or freeway primary] **the** highway from an unzoned commercial or industrial area as defined in this section **and located adjacent to highways located on the interstate, federal-aid primary system as it existed on June 1, 1991, or the national highway system as amended, unless the opposite side of the highway qualifies as a separate unzoned commercial or industrial area; or**

(b) Land zoned by a state or local law, regulation, or ordinance;

[(c) Land on the opposite side of a nonfreeway primary highway which is determined by the proper state authority to be a scenic area;]

(5) "Commercial or industrial activities" as used in this section means those which are generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following shall be considered commercial or industrial:

(a) Outdoor advertising structures;

(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including seasonal roadside fresh produce stands;

(c) Transient or temporary activities;

(d) Activities more than six hundred sixty feet from the nearest edge of the right-of-way or not visible from the main traveled way;

(e) Activities conducted in a building principally used as a residence;

(f) Railroad tracks and minor sidings;

(6) The words "unzoned commercial or industrial land" shall also include all areas not specified in this section which constitute an "unzoned commercial or industrial area" within the meaning of the present Section 131 of Title 23 of the United States Code, or as such statute may be amended. As used in this section, the words "zoned commercial or industrial area" shall refer to those areas zoned commercial or industrial by the duly constituted zoning authority of a municipality, county, or other lawfully established political subdivision of the state, or by the state **and which is within seven hundred fifty feet of one or more permanent commercial or industrial activities.** [Unzoned] Commercial or industrial activities as used in this section are limited to those activities:

(a) In which the primary use of the property is commercial or industrial in nature;

(b) Which are clearly visible from the highway and recognizable as a commercial business;

(c) Which are permanent as opposed to temporary or transitory and of a nature that would customarily be restricted to commercial or industrial zoning in areas comprehensively zoned; and

(d) In determining whether the primary use of the property is commercial or industrial pursuant to paragraph (a) of this subdivision, the state highways and transportation commission shall consider the following factors:

a. The presence of a permanent and substantial building;

b. The existence of utilities and [required] **local** business licenses, if any, for the commercial activity;

c. On-premise signs or other identification;

d. [Communication with the business owner that can be accomplished at regular intervals either in person, by telephone, by fax machine, by electronic mail or by some other business means] **The presence of an owner or employee on the premises for at least twenty hours per week;**

(7) In zoned commercial and industrial areas, whenever a state, county or municipal zoning authority has adopted laws or ordinances which include regulations with respect to the size, lighting and spacing of signs, which regulations are consistent with the intent of sections 226.500 to 226.600 and with customary use, then from and after the effective date of such regulations, and so long as they shall continue in effect, the provisions of this section shall not apply to the erection of signs in such areas. Notwithstanding any other provisions of this section, after August 28, 1992, with respect to any outdoor advertising which is regulated by the provisions of subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527:

(a) No county or municipality shall issue a permit to allow a regulated sign to be newly erected without a permit issued by the state highways and transportation commission;

(b) A county or municipality may charge a reasonable one-time permit or inspection fee to assure compliance with local wind load and electrical requirements when the sign is first erected, but a county or municipality may not charge a permit or inspection fee for such sign after such initial fee. Changing the display face or performing routine maintenance shall not be considered as erecting a new sign;

(8) The state highways and transportation commission on behalf of the state of Missouri, may seek agreement with the Secretary of Transportation of the United States under Section 131 of Title 23, United States Code, as amended, that sections 226.500 to 226.600 are in conformance with that Section 131 and provides effective control of outdoor advertising signs as set forth therein. If such agreement cannot be reached and the penalties under subsection (b) of Section 131 are invoked, the attorney general of this state shall institute proceedings described in subsection (1) of that Section 131.

226.550. PERMITS, FEES FOR, EXEMPTION — PERMITS TO BE ISSUED FOR EXISTING SIGNS, EXCEPTIONS — BIENNIAL INSPECTION FEES, COLLECTION, DEPOSIT, EXCEPTIONS — PERMIT TO ERECT SIGN LAPSES, WHEN. — 1. No outdoor advertising which is regulated by subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527 shall be erected or maintained on or after August 28, 1992, without a one-time permanent permit issued by the state highways and transportation commission. Application for permits shall be made to the state highways and transportation commission on forms furnished by the commission and shall be accompanied by a permit fee of [twenty-eight dollars and fifty cents] **two hundred dollars** for all signs; except that, tax-exempt religious organizations as defined in subdivision (11) of section 313.005, RSMo, service organizations as defined in subdivision (12) of section 313.005, RSMo, veterans' organizations as defined in subdivision (14) of section 313.005, RSMo, and fraternal organizations as defined in subdivision (8) of section 313.005, RSMo, shall be granted a permit for signs less than seventy-six square feet without payment of the fee. In the event a permit holder fails to erect a sign structure within twenty-four months of issuance, said permit shall expire and a new permit must be obtained prior to any construction.

2. No outdoor advertising which is regulated by subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527 which was erected prior to August 28, 1992, shall be maintained without a one-time permanent permit for outdoor advertising issued by the state highways and transportation commission. If a one-time permanent permit was issued by the state highways and transportation commission after March 30, 1972, and before August 28, 1992, it is not necessary for a new permit to be issued. If a one-time permanent permit was not issued for a lawfully erected and lawfully existing sign by the state highways and transportation commission after March 30, 1972, and before August 28, 1992, a one-time permanent permit shall be issued by the commission for each sign which is lawfully in existence on the day prior to August 28, 1992, upon application and payment of a permit fee of [twenty-eight dollars and fifty cents] **two hundred dollars**. All applications and fees due pursuant to this subsection shall be submitted before December 31, 1992.

3. For purposes of sections 226.500 to 226.600, the terminology "structure lawfully in existence" or "lawfully existing" sign or outdoor advertising shall, nevertheless, include the following signs unless the signs violate the provisions of subdivisions (3) to (7) of subsection 1 of section 226.580:

(1) All signs erected prior to January 1, 1968;

(2) All signs erected before March 30, 1972, but on or after January 1, 1968, which would otherwise be lawful but for the failure to have a permit for such signs prior to March 30, 1972, except that any sign or structure which was not in compliance with sizing, spacing, lighting, or location requirements of sections 226.500 to 226.600 as the sections appeared in the revised statutes of Missouri 1969, wheresoever located, shall not be considered a lawfully existing sign or structure;

(3) All signs erected after March 30, 1972, which are in conformity with sections 226.500 to 226.600;

(4) All signs erected in compliance with sections 226.500 to 226.600, RSMo, prior to the effective date of this act.

4. On or after August 28, 1992, the state highways and transportation commission may, in addition to the fees authorized by subsections 1 and 2 of this section, collect a biennial inspection fee every two years after a state permit has been issued. Biennial inspection fees due after August 28, [1992] **2002, and prior to August 28, 2003**, shall be [twenty-eight dollars and fifty cents] **fifty dollars**. **Biennial inspection fees due on or after August 28, 2003, shall be seventy-five dollars. Biennial inspection fees due on or after August 28, 2004, shall be one hundred dollars;** except that, tax-exempt religious organizations as defined in subdivision (11) of section 313.005, RSMo, service organizations as defined in subdivision (12) of section 313.005, RSMo, veterans' organizations as defined in subdivision (14) of section 313.005,

RSMo, and fraternal organizations as defined in subdivision (8) of section 313.005, RSMo, shall not be required to pay such fee.

5. [In order to effect collection from a sign owner of delinquent and unpaid biennial inspection fees which are payable pursuant to this section, or delinquent removal costs pursuant to section 226.580, the state highways and transportation commission may require any delinquent fees to be paid before a permit is issued to the delinquent sign owner for any new sign.] **In order to effect the more efficient collection of biennial inspection fees, the state highways and transportation commission is encouraged to adopt a renewal system in which all permits on a particular county are renewed in the same month. In conjunction with the conversion to this renewal system, the state highways and transportation commission is specifically authorized to prorate renewal fees based on changes in renewal dates.**

6. Sign owners or owners of the land on which signs are located must apply to the state highways and transportation commission for biennial inspection and submit any fees as required by this section on or before December 31, 1992. For a permitted sign which does not have a permit, a permit shall be issued at the time of the next biennial inspection.

7. The state highways and transportation commission shall deposit all fees received for outdoor advertising permits and inspection fees in the state road fund, keeping a separate record of such fees, and the same may be expended by the commission in the administration of sections 226.500 to 226.600.

226.573. RULEMAKING — NEW TECHNOLOGY IN OUTDOOR ADVERTISING. — The state highways and transportation commission is authorized to adopt administrative rules regulating the use of new technology in outdoor advertising as allowed under federal regulations for federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated pursuant to the authority delegated in this section shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after [August 28, 1999,] **the effective date of this section** shall be invalid and void.

226.580. UNLAWFUL SIGNS DEFINED — REMOVAL AUTHORIZED — NOTICE — OWNER MAY PROCEED, HOW — REMOVAL COSTS, HOW PAID — REVIEW OF ORDER, HOW — ORDER OF REMOVAL — REIMBURSEMENT TO OWNER, WHEN. — 1. The following outdoor advertising within six hundred sixty feet of the right-of-way of interstate or primary highways is deemed unlawful and shall be subject to removal:

(1) Signs erected after March 30, 1972, contrary to the provisions of sections 226.500 to 226.600 and signs erected on or after January 1, 1968, but before March 30, 1972, contrary to the sizing, spacing, lighting, or location provisions of sections 226.500 to 226.600 as they appeared in the revised statutes of Missouri 1969; or

(2) Signs for which a permit is not obtained or a biennial inspection fee is [not paid as prescribed in sections 226.500 to 226.600] **more than twelve months past due;** or

(3) Signs which are obsolete; (Signs shall not be considered obsolete solely because they temporarily do not carry an advertising message.) or

(4) Signs that are not in good repair; or

(5) Signs not securely affixed to a substantial structure; or

(6) Signs which attempt or appear to attempt to regulate, warn, or direct the movement of traffic or which interfere with, imitate, or resemble any official traffic sign, signal, or device; or

(7) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

2. Signs erected after August 13, 1976, beyond six hundred sixty feet of the right-of-way outside of urban areas, visible from the main traveled way of the interstate or primary system and erected with the purpose of their message being read from such traveled way, except those signs described in subdivisions (1) and (2) of section 226.520 are deemed unlawful and shall be subject to removal.

3. If a sign is deemed to be unlawful for any of the reasons set out in subsections 1 [and 2] **to 7** of this section, the state highways and transportation commission shall give notice either by certified mail or by personal service to the owner or occupant of the land on which advertising believed to be unlawful is located and the owner of the outdoor advertising structure. Such notice shall specify the basis for the alleged unlawfulness, shall specify the remedial action which is required to correct the unlawfulness and shall advise that a failure to take the remedial action within [thirty] **sixty** days will result in the sign being removed. Within [thirty] **sixty** days after receipt of the notice as to him, the owner of the land or of the structure may remove the sign or may take the remedial action specified or may file an action for administrative review pursuant to the provisions of sections 536.067 to 536.090, RSMo, to review the action of the state highways and transportation commission, or he may proceed under the provisions of section 536.150, RSMo, as if the act of the highways and transportation commission was one not subject to administrative review. Notwithstanding any other provisions of sections 226.500 to 226.600, no outdoor advertising structure erected prior to August 28, 1992, defined as a "structure lawfully in existence" or "lawfully existing", by subdivision (1), (2) or (3) of subsection 2 of section 226.550, shall be removed for failure to have a permit until a notice, as provided in this section, has been issued which shall specify failure to obtain a permit or pay a biennial inspection fee as the basis for alleged unlawfulness, and shall advise that failure to take the remedial action of applying for a permit or paying the inspection fee within [thirty] **sixty** days will result in the sign being removed. **Signs for which biennial inspection fees are delinquent shall not be removed unless the fees are more than twelve months past due and actual notice of the delinquency has been provided to the sign owner.** Upon application made within the [thirty-day] **sixty-day** period as provided in this section, and accompanied by the fee prescribed by section 226.550, together with any inspection fees that would have been payable if a permit had been timely issued, the state highways and transportation commission shall issue a one-time permanent permit for such sign. Such signs with respect to which permits are so issued are hereby determined by the state of Missouri to have been lawfully erected within the meaning of "lawfully erected" as that term is used in Title 23, United States Code, section 131(g), as amended, and shall only be removed upon payment of just compensation, except that the issuance of permits shall not entitle the owners of such signs to compensation for their removal if it is finally determined that such signs are not "lawfully erected" as that term is used in section 131(g) of Title 23 of the United States Code.

4. If **actual** notice as provided in this section is given and neither the remedial action specified is taken nor an action for review is filed, or if an action for review is filed and is finally adjudicated in favor of the state highways and transportation commission, the state highways and transportation commission shall have authority to immediately remove the unlawful outdoor advertising. The owner of the structure shall be liable for the costs of such removal. The commission shall incur no liability for causing this removal, except for damage caused by negligence of the commission, its agents or employees.

5. If notice as provided in this section is given and an action for review is filed under the provisions of section 536.150, RSMo, or if administrative review pursuant to the provisions of sections 536.067 to 536.090, RSMo, is filed and the state highways and transportation commission enters its final decision and order to remove the outdoor advertising structure, the advertising message contained on the structure shall be removed or concealed by the owner of the structure, at the owner's expense, until the action for judicial review is finally adjudicated.

If the owner of the structure refuses or fails to remove or conceal the advertising message, the commission may remove or conceal the advertising message and the owner of the structure shall be liable for the costs of such removal or concealment. The commission shall incur no liability for causing the removal or concealment of the advertising message while an action for review is pending, except if the owner finally prevails in its action for judicial review, the commission will compensate the owner at the rate the owner is actually receiving income from the advertiser pursuant to written lease from the time the message is removed until the judicial review is final.

6. Any signs advertising tourist oriented type business will be the last to be removed.

7. Any signs prohibited by section 226.527 which were lawfully erected prior to August 13, 1976, shall be removed pursuant to section 226.570.

8. The transportation department shall reimburse to the lawful owners of any said nonconforming signs that are now in existence as defined in sections 226.540, 226.550, 226.580 and 226.585, said compensation calculated and/or based on a fair market value and not mere replacement cost.

226.585. VEGETATION ALONG RIGHT-OF-WAY, CUTTING OF — TRANSPORTATION DEPARTMENT, DUTIES. — The state transportation department may cut and trim any vegetation on the highway right-of-way which interferes with the effectiveness of or obscures a lawfully erected billboard, or the highways and transportation commission shall promulgate reasonable rules and regulations to permit the cutting and trimming of such vegetation on the highway or right-of-way by the owner of such billboard. **The right to a vegetation permit by an outdoor advertising permit holder shall be issued in accordance with the current rules and regulations promulgated by the highways and transportation commission and shall not be denied without good cause.** Such rules and regulations shall be promulgated within twelve months after August 28, 1992, or the commission shall suspend the collection of the biennial inspection fees prescribed by section 226.550 until such rules are promulgated, and such rules may include authority to charge a reasonable fee for such [permission] **permit**. This section shall not apply if its implementation would have the effect of making Missouri be in noncompliance with requirements of Title 23, United States Code, section 131.

227.100. PUBLICATION OF NOTICES, WHERE — CONSTRUCTION BIDS — REJECTION — BOND REQUIRED. — 1. All contracts for the construction of said work shall be let to the lowest responsible bidder or bidders after notice and publication of an advertisement in a newspaper published in the county where the work is to be done, and in such other publications as the commission may determine[; provided, that in all cases where the project advertised shall be for the construction of more than ten miles of road, such advertisement shall provide for bids on sections of said road not to exceed ten miles, as well as on the project as a whole, and such contract shall then be let so as to provide for the most economical construction of said project].

2. Each bid shall be accompanied by a certified check or a cashier's check or a bid bond, guaranteed by a surety company authorized by the director of the department of insurance to conduct surety business in the state of Missouri, equal to five percent of the bid, which certified check, cashier's check, or bid bond shall be deposited with the commissioner as a guaranty and forfeited to the state treasurer to the credit of the state road fund in the event the successful bidder fails to comply with the terms of the proposal, and return to the successful bidder on execution and delivery of the performance bond provided for in subsection 4. The checks of the unsuccessful bidders shall be returned to them in accordance with the terms of the proposal.

3. All notices of the letting of contracts under this section shall state the time and place when and where bids will be received and opened, and all bids shall be sealed and opened only at the time and place mentioned in such notice and in the presence of some member of the commission or some person named by the commission for such purpose.

4. The successful bidders for the construction of said work shall enter into contracts furnished and prescribed by the commission and shall give good and sufficient bond, in a sum

equal to the contract price, to the state of Missouri, with sureties approved by the commission and to ensure the proper and prompt completion of said work in accordance with the provisions of said contracts, and plans and specifications; provided, that if, in the opinion of the majority of the members of the commission, the lowest bid or bids for the construction of any of the roads, or parts of roads, herein authorized to be constructed, shall be excessive, then, and in that event, said commission shall have the right, and it is hereby empowered and authorized to reject any or all bids, and to construct, under its own direction and supervision, all of such roads and bridges, or any part thereof.

227.107. DESIGN-BUILD PROJECT CONTRACTS PERMITTED, LIMITATIONS, DEFINITIONS
— WRITTEN PROCEDURES REQUIRED — SUBMISSION OF DETAILED DISADVANTAGED
BUSINESS ENTERPRISE PARTICIPATION PLAN — BID PROCESS — RULEMAKING AUTHORITY
— STATUS REPORT TO GENERAL ASSEMBLY — COST ESTIMATES TO BE PUBLISHED. — 1.

Notwithstanding any provision of section 227.100 to the contrary, as an alternative to the requirements and procedures specified by sections 227.040 to 227.100, the state highways and transportation commission is authorized to enter into highway design-build project contracts. The authority granted to the state highways and transportation commission by this section shall be limited to a total of three design-build project contracts. Two design-build projects authorized by this section shall be selected by the highways and transportation commission from 1992 fifteen year plan projects. Authority to enter into design-build projects granted by this section shall expire on July 1, 2012, unless extended by statute or upon completion of three projects, whichever is first.

2. For the purpose of this section a "design-builder" is defined as an individual, corporation, partnership, joint venture or other entity, including combinations of such entities making a proposal to perform or performing a design-build highway project contract.

3. For the purpose of this section, "design-build highway project contract" is defined as the procurement of all materials and services necessary for the design, construction, reconstruction or improvement of a state highway project in a single contract with a design-builder capable of providing the necessary materials and services.

4. For the purpose of this section, "highway project" is defined as the design, construction, reconstruction or improvement of highways or bridges under contract with the state highways and transportation commission, which is funded by state, federal or local funds or any combination of such funds.

5. In using a design-build highway project contract, the commission shall establish a written procedure by rule for prequalifying design-builders before such design-builders will be allowed to make a proposal on the project.

6. In any design-build highway project contract, whether involving state or federal funds, the commission shall require that each person submitting a request for qualifications provide a detailed disadvantaged business enterprise participation plan. The plan shall provide information describing the experience of the person in meeting disadvantaged business enterprise participation goals, how the person will meet the department of transportation's disadvantaged business enterprise participation goal and such other qualifications that the commission considers to be in the best interest of the state.

7. The commission is authorized to issue a request for proposals to a maximum of five design-builders prequalified in accordance with subsection 5 of this section.

8. The commission may require approval of any person performing subcontract work on the design-build highway project.

9. The bid bond and performance bond requirements of section 227.100 and the payment bond requirements of section 107.170, RSMo, shall apply to the design-build highway project.

10. The commission is authorized to prescribe the form of the contracts for the work.

11. The commission is empowered to make all final decisions concerning the performance of the work under the design-build highway project contract, including claims for additional time and compensation.

12. The provisions of sections 8.285 to 8.291, RSMo, shall not apply to the procurement of architectural, engineering or land surveying services for the design-build highway project, except that any person providing architectural, engineering or land surveying services for the design-builder on the design-build highway project must be licensed in Missouri to provide such services.

13. The commission shall pay a reasonable stipend to prequalified responsive design-builders who submit a proposal, but are not awarded the design-build highway project.

14. The commission shall comply with the provisions of any act of congress or any regulations of any federal administrative agency which provides and authorizes the use of federal funds for highway projects using the design-build process.

15. The commission shall promulgate administrative rules to implement this section or to secure federal funds. Such rules shall be published for comment in the Missouri Register and shall include prequalification criteria, the make-up of the prequalification review team, specifications for the design criteria package, the method of advertising, receiving and evaluating proposals from design-builders, the criteria for awarding the design-build highway project based on the design criteria package and a separate proposal stating the cost of construction, and other methods, procedures and criteria necessary to administer this section.

16. The commission shall make a status report to the members of the general assembly and the governor following the award of the design-build project, as an individual component of the annual report submitted by the commission to the joint transportation oversight committee in accordance with the provisions of section 21.795, RSMo. The annual report prior to advertisement of the design-build highway project contracts shall state the goals of the project in reducing costs and/or the time of completion for the project in comparison to the design-bid-build method of construction and objective measurements to be utilized in determining achievement of such goals. Subsequent annual reports shall include: the time estimated for design and construction of different phases or segments of the project and the actual time required to complete such work during the period; the amount of each progress payment to the design-builder during the period and the percentage and a description of the portion of the project completed regarding such payment; the number and a description of design change orders issued during the period and the cost of each such change order; upon substantial and final completion, the total cost of the design-build highway project with a breakdown of costs for design and construction; and such other measurements as specified by rule. The annual report immediately after final completion of the project shall state an assessment of the advantages and disadvantages of the design-build method of contracting for highway and bridge projects in comparison to the design-bid-build method of contracting and an assessment of whether the goals of the project in reducing costs and/or the time of completion of the project were met.

17. The commission shall give public notice of a request for qualifications in at least two public newspapers that are distributed wholly or in part in this state and at least one construction industry trade publication that is distributed nationally.

18. The commission shall publish its cost estimates of the design-build highway project award and the project completion date along with its public notice of a request for qualifications of the design-build project.

19. If the commission fails to receive at least two responsive submissions from design-builders considered qualified, submissions shall not be opened and it shall readvertise the project.

305.230. AERONAUTICS PROGRAM, HIGHWAYS AND TRANSPORTATION COMMISSION TO ADMINISTER — PURPOSES — AVIATION TRUST FUND, ADMINISTRATION, USES — APPROPRIATION — IMMEDIATE AVAILABILITY OF FUNDS IN THE EVENT OF A DISASTER. —

1. The state highways and transportation commission shall administer an aeronautics program within this state. The [state] commission shall encourage, foster and participate with the political subdivisions of this state in the promotion and development of aeronautics. The [state] commission may provide financial assistance in the form of grants from funds appropriated for such purpose to any political subdivision or instrumentality of this state acting independently or jointly or to the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration for the planning, acquisition, construction, improvement or maintenance of airports, or for other aeronautical purposes.

2. Any political subdivision or instrumentality of this state or the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration receiving state funds for the purchase, construction, or improvement, except maintenance, of an airport shall agree before any funds are paid to it to control by ownership or lease the airport for a period equal to the useful life of the project as determined by the [state] commission following the last payment of state or federal funds to it. In the event an airport authority ceases to exist for any reason, this obligation shall be carried out by the governing body which created the authority.

3. Unless otherwise provided, grants to political subdivisions, instrumentalities or to the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration shall be made from the aviation trust fund. In making grants, the commission shall consider whether the local community has given financial support to the airport in the past. Priority shall be given to airports with local funding for the past five years with no reduction in such funding. The aviation trust fund is a revolving trust fund exempt from the provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue funds of the state by the state treasurer. All interest earned upon the balance in the aviation trust fund shall be deposited to the credit of the same fund.

4. The moneys in the aviation trust fund shall be administered by the [state] commission and, when appropriated, shall be used for the following purposes:

(1) As matching funds on an up to [eighty] **ninety** percent [state/twenty] **state/ten** percent local basis, except in the case where federal funds are being matched, when the ratio of state and local funds used to match the federal funds shall be fifty percent state/fifty percent local:

(a) For preventive maintenance of runways, taxiways and aircraft parking areas, and for emergency repairs of the same;

(b) For the acquisition of land for the development and improvement of airports;

(c) For the earthwork and drainage necessary for the construction, reconstruction or repair of runways, taxiways, and aircraft parking areas;

(d) For the construction, or restoration of runways, taxiways, or aircraft parking areas;

(e) For the acquisition of land or easements necessary to satisfy Federal Aviation Administration safety requirements;

(f) For the identification, marking or removal of natural or manmade obstructions to airport control zone surfaces and safety areas;

(g) For the installation of runway, taxiway, boundary, ramp, or obstruction lights, together with any work directly related to the electrical equipment;

(h) For the erection of fencing on or around the perimeter of an airport;

(i) For purchase, installation or repair of air navigational and landing aid facilities and communication equipment;

(j) For engineering related to a project funded under the provisions of this section and technical studies or consultation related to aeronautics;

(k) For airport planning projects including master plans and site selection for development of new airports, for updating or establishing master plans and airport layout plans at existing airports;

(l) For the purchase, installation, or repair of safety equipment and such other capital improvements and equipment as may be required for the safe and efficient operation of the airport;

(2) As total funds, with no local match:

(a) For providing air markers, windsocks, and other items determined to be in the interest of the safety of the general flying public;

(b) For the printing and distribution of state aeronautical charts and state airport directories on an annual basis, and a newsletter on a quarterly basis or the publishing and distribution of any public interest information deemed necessary by the [state] commission;

(c) For the conducting of aviation safety workshops;

(d) For the promotion of aerospace education;

(3) As total funds with no local match, up to five hundred thousand dollars per year may be used for the cost of operating existing air traffic control towers that do not receive funding from the Federal Aviation Administration or the **United States** Department of Defense, except no more than one hundred twenty-five thousand dollars per year may be used for any individual control tower.

5. In the event of a natural or manmade disaster which closes any runway or renders inoperative any electronic or visual landing aid at an airport, any funds appropriated for the purpose of capital improvements or maintenance of airports may be made immediately available for necessary repairs once they are approved by the [Missouri department of transportation] **commission**. For projects designated as emergencies by the [Missouri department of transportation] **commission**, all requirements relating to normal procurement of engineering and construction services are waived.

6. As used in this section, the term "instrumentality of the state" shall mean any state educational institution as defined in section 176.010, RSMo, or any state agency which owned or operated an airport on January 1, 1997, and continues to own or operate such airport.

Approved May 28, 2002

HB 1205 [SCS HB 1205, 1214, 1314, 1320, 1504, 1788, 1867 & 1969]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates special license plate for members of the Civil Air Patrol.

AN ACT to repeal sections 301.441 and 301.448, RSMo, and to enact in lieu thereof ten new sections relating to special license plates.

SECTION

A. Enacting clause.

301.441. Retired members of the United States military special license plates — application — proof required — license, how marked.

301.448. Military, military reserve and national guard plates for certain vehicles — application, requirements — design, how made.

- 301.450. Spouse of military members may be issued special license plates, procedure. (Transferred 1985; now 306.530)
- 301.3060. Civil Air Patrol special license plate, application, fee.
- 301.3085. United States Marine Corps, active duty combat, special license plate authorized.
- 301.3090. Operation Enduring Freedom special license plates, application, fee.
- 301.3105. Veterans of Foreign Wars special license plates, application, fee.
- 301.3107. Missouri Task Force One special license plate, application, fee.
- 301.3116. Operation Noble Eagle special license plate, application, fee.
- 301.4000. Military service special license plate for motorcycles, application, fee.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 301.441 and 301.448, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 301.441, 301.448, 301.450, 301.3060, 301.3085, 301.3090, 301.3105, 301.3107, 301.3116 and 301.4000, to read as follows:

301.441. RETIRED MEMBERS OF THE UNITED STATES MILITARY SPECIAL LICENSE PLATES — APPLICATION — PROOF REQUIRED — LICENSE, HOW MARKED. — Any person who is a retired member of the United States Army, Navy, Air Force, Marine Corps or Coast Guard may apply for [issuance of special] **retired military** motor vehicle license plates for any [passenger motor vehicle subject to the registration fees provided in section 301.055, or for a nonlocal property-carrying] **motor vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed [for a gross weight of nine thousand one pounds to twelve] in excess of eighteen thousand pounds [as provided in section 301.057, whether such vehicle is owned solely or jointly] gross weight. There shall be no limit on the number of license plates any person qualified pursuant to this section may obtain so long as each set of license plates issued pursuant to this section is issued for a vehicle owned solely or jointly by such person.** No additional fee shall be charged for [a set of special] license plates issued pursuant to this section. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section. Such person shall make application for the [special] license plates on a form provided by the director of revenue and furnish such proof of retired status from that particular branch of the United States armed forces as the director may require. The plates shall have a white background with a blue and red configuration at the discretion of the advisory committee established in section 301.129. Such plates shall bear the insignia of the respective branch the applicant served in. The director shall then issue license plates bearing the words "RETIRED MILITARY" in preference to the words "SHOW-ME STATE" in a form prescribed by the advisory committee established in section 301.129. Such license plates shall be made with fully reflective material, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

301.448. MILITARY, MILITARY RESERVE AND NATIONAL GUARD PLATES FOR CERTAIN VEHICLES — APPLICATION, REQUIREMENTS — DESIGN, HOW MADE. — Any person who has served and was honorably discharged or currently serves in any branch of the United States armed forces or reserves, the United States Coast Guard or reserve, the United States Merchant Marines or reserve or the Missouri national guard, or any subdivision of any of such services or a member of the United States Marine Corps League may apply for special motor vehicle license plates, either solely or jointly, for issuance either to passenger motor vehicles subject to the registration fees provided in section 301.055, or to nonlocal property-carrying commercial motor vehicles licensed for a gross weight of six thousand pounds up through and including twelve thousand pounds as provided in section 301.057. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof that such person is a member or former member of any such branch of service as the director may require. Upon presentation of the proof of eligibility and annual payment of the fee required

for personalized license plates in section 301.144, and other fees and documents which may be required by law, the department shall issue personalized license plates which shall bear the seal, logo or emblem, along with a word or words designating the branch or subdivision of such service for which the person applies. All seals, logos, emblems or special symbols shall become an integral part of the license plate; however, no plate shall contain more than one seal, logo, emblem or special symbol and the design of such plates shall be approved by the advisory committee established in section 301.129 and by the branch or subdivision of such service or the Marine Corps League prior to issuing such plates. The plates shall have a white background with a blue and red configuration at the discretion of the advisory committee established in section 301.129. The bidding process used to select a vendor for the material to manufacture the license plates authorized by this section shall consider the aesthetic appearance of the plate. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms. [The director of revenue shall not authorize the manufacture of the material to produce such license plates with the individual seal, logo, or emblem until such time he has received one hundred applications for such plates for each branch or subdivision of such service. License plates indicating army reserve, naval reserve, air force reserve, marine corps reserve, coast guard reserve, issued prior to January 1, 1994, will still be in full force and effect until such time the one hundred minimum applications for such branch of service is met.] All license plates issued under this provision must be renewed in accordance with law. License plates issued under the provisions of this section shall not be transferable to any other person, except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle for the duration of the year licensed, in the event of the death of the qualified applicant.

301.450. SPOUSE OF MILITARY MEMBERS MAY BE ISSUED SPECIAL LICENSE PLATES, PROCEDURE. (TRANSFERRED 1985; NOW 306.530) — 1. Notwithstanding the provisions of any other section to the contrary, any surviving spouse who was married to an individual who would have been eligible to own any of the various special military license plates provided for in section 301.448, and who has not remarried, shall be allowed to obtain such special license plates. The surviving spouse shall make application, provide necessary documentation of the individual's military service, and pay such fees as are otherwise required by section 301.448, for issuance of the special military plates. Such plates must be renewed as otherwise required by law. The surviving spouse may renew such plates unless such spouse remarries. License plates issued pursuant to this section shall not be transferable to any other person.

2. The director of the department of revenue shall have the authority to promulgate any rules and regulations necessary for the administration of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

301.3060. CIVIL AIR PATROL SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any person who is a member of the Civil Air Patrol may, after an annual payment of an emblem-use authorization fee to the Civil Air Patrol as provided in subsection 2 of this section, apply for Civil Air Patrol license plates for any motor vehicle such person owns, either solely or jointly, for issuance either for a passenger motor vehicle subject to the registration fees as provided in section 301.055 or for a local or nonlocal property-carrying commercial motor vehicle licensed for a gross weight not in excess of eighteen thousand pounds as provided in section 301.057 or 301.058. The Civil Air Patrol hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section.

2. Upon annual application and payment of a fifteen dollar emblem-use contribution to the Civil Air Patrol, the Civil Air Patrol shall issue to the person, without further charge, an emblem-use authorization statement which shall be presented by the member

to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement and payment of the fee required for personalized license plates in section 301.144 and other fees and documents which may be required by law, the department of revenue shall issue a personalized license plate, which shall bear the emblem of the Civil Air Patrol in the left hand section of such license plate and the words "CIVIL AIR PATROL" in place of the words "SHOW-ME STATE" to the person. The emblem, seal or logo shall be reproduced on the license plate in as a clear and defined manner as possible. If the emblem, seal or logo is unacceptable to the Civil Air Patrol, it shall be the Civil Air Patrol's responsibility to furnish the artwork in a digitalized format. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

3. A fee for the issuance of personalized license plates pursuant to section 301.144, shall not be required for plates issued pursuant to this section. There shall be no limit on the number of license plates any person qualified pursuant to this section may obtain so long as each set of plates issued pursuant to this section is issued for vehicles owned solely or jointly by such person. License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle may operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

301.3085. UNITED STATES MARINE CORPS, ACTIVE DUTY COMBAT, SPECIAL LICENSE PLATE AUTHORIZED. — Any person who has participated in active duty combat action while serving in the United States Marine Corps or the United States Navy may apply for special motor vehicle license plates for any vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof as a recipient of the combat infantry badge as the director may require. The director shall then issue license plates bearing the words "COMBAT ACTION RIBBON" in place of the words "SHOW-ME STATE" in a form prescribed by the director, except that such license plates shall be made with fully reflective material, shall have a white background with a blue and red configuration at the discretion of the director, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Such plates shall also bear an image of a blue, yellow, and red ribbon. There shall be an additional fee charged for each set of special combat action ribbon license plates issued equal to the fee charged for personalized license plates in section 301.144. No more than one set of combat action ribbon license plates shall be issued to a qualified applicant. License plates issued pursuant to the provisions of this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle with such plates for the duration of the year licensed in the event of the death of the qualified person.

301.3090. OPERATION ENDURING FREEDOM SPECIAL LICENSE PLATES, APPLICATION, FEE. — Any person who is serving on active duty in any branch of the United States military, including the reserves or national guard, during any part of Operation Enduring Freedom and has not been dishonorably discharged may receive special motor vehicle license plates for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service during Operation Enduring Freedom or proof of status as an honorably

discharged veteran as the director may require. Upon presentation of the proof of eligibility and annual payment of the fee required for personalized license plates prescribed by section 301.144, and other fees and documents which may be required by law, the director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "OPERATION ENDURING FREEDOM" in place of the words "SHOW-ME STATE". Such plates shall also bear an image of the American flag. The plates shall be clearly visible at night and shall be aesthetically attractive, as prescribed by section 301.130. No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant. License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle may operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

301.3105. VETERANS OF FOREIGN WARS SPECIAL LICENSE PLATES, APPLICATION, FEE.

— 1. Any member of the Veterans of Foreign Wars may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Department of Missouri, Veterans of Foreign Wars of which the person is a member. The Veterans of Foreign Wars hereby authorizes the use of its official emblem to be affixed on multi-year personalized license plates as provided in this section. Any contribution to the Veterans of Foreign Wars derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Department of Missouri, Veterans of Foreign Wars. Any member of the Veterans of Foreign Wars may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Department of Missouri, Veterans of Foreign Wars, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Veterans of Foreign Wars. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Veterans of Foreign Wars emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Veterans of Foreign Wars emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3107. MISSOURI TASK FORCE ONE SPECIAL LICENSE PLATE, APPLICATION, FEE.

— 1. Any member of Missouri Task Force One may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess

of eighteen thousand pounds gross weight. Any member of Missouri Task Force One may annually apply for such license plates.

2. Upon presentation of the appropriate proof of eligibility as determined by the director and annual payment of a fifteen dollar fee in addition to the registration fee, and other documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear an appropriate configuration to be determined by the director, with the words "MISSOURI TASK FORCE ONE" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. No more than one set of license plates shall be issued pursuant to this section to a qualified applicant. License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle with such plates for the duration of the year licensed in the event of the death of the qualified person. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3116. OPERATION NOBLE EAGLE SPECIAL LICENSE PLATE, APPLICATION, FEE. — Any person who is serving or has served in any branch of the United States military, including the reserves or national guard, during any part of Operation Noble Eagle and has not been dishonorably discharged may receive special motor vehicle license plates for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service during Operation Noble Eagle or proof of status as an honorably discharged veteran as the director may require. Upon presentation of the proof of eligibility and annual payment of the fee required for personalized license plates prescribed by section 301.144, and other fees and documents which may be required by law, the director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "OPERATION NOBLE EAGLE" in place of the words "SHOW-ME STATE". Such plates shall also bear an image of the American flag. The plates shall be clearly visible at night and shall be aesthetically attractive, as prescribed by section 301.130. No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant. License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle may operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

301.4000. MILITARY SERVICE SPECIAL LICENSE PLATE FOR MOTORCYCLES, APPLICATION, FEE. — Any person who served in the active military service in a branch of the armed forces of the United States during a period of war and was honorably discharged from such service may apply for special motorcycle license plates, either solely or jointly, for issuance for any motorcycle subject to the registration fees provided in section 301.055. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service in a foreign war and status as an honorably discharged veteran as the director may require. Upon

presentation of the proof of eligibility and payment of a fifteen dollar fee in addition to the regulation registration fees, and presentation of other documents which may be required by law, the director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the director, with the words "U.S. VET" in place of the words "SHOW-ME STATE". The plates shall be clearly visible at night and shall be aesthetically attractive, as prescribed by section 301.130. No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant. License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motorcycle may operate the motorcycle for the duration of the year licensed in the event of the death of the qualified person.

Approved July 3, 2002

HB 1265 [SCS HB 1265]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes automatic registration with selective service for male applicants for driver's licenses between the ages of eighteen and twenty-six.

AN ACT to amend chapter 302, RSMo, by adding thereto one new section relating to registration with the Selective Service system, with an effective date.

SECTION

A. Enacting clause.

302.169. Registration with the Selective Service System at time of application for driver's license, procedure.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 302, RSMo, is amended by adding thereto one new section, to be known as section 302.169, to read as follows:

302.169. REGISTRATION WITH THE SELECTIVE SERVICE SYSTEM AT TIME OF APPLICATION FOR DRIVER'S LICENSE, PROCEDURE. — **1.** Any male applicant who applies for a driver's license instruction permit or license or renewal of any such permit or license and who is at least eighteen years of age but less than twenty-six years of age shall also be allowed to register in compliance with the requirements of Section 3 of the Military Selective Service Act, 50 U.S.C. App. Section 453, as amended. The application shall provide appropriate space for completion by the applicant to indicate his desire to register with the Selective Service.

2. If the applicant indicates his desire to register with the Selective Service by completing the appropriate section of the application as described in subsection 1 of this section, the department of revenue shall forward in an electronic format the necessary personal information of such applicants to the Selective Service system. The applicant's signature on the application and completion of the appropriate section of the application shall serve as an indication that the applicant is authorizing the department to forward to the Selective Service system the necessary information for such registration. The department shall notify the applicant at the time of application that the applicant's

signature constitutes consent to registration with the Selective Service system, if the applicant is not already registered.

3. The provisions of this section shall become effective July 1, 2003.

Approved July 11, 2002

HB 1270 [CCS#2 SS SCS HB 1270 & HB 2032]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Disallows issuance of special permits for movement of certain vehicles on state and federal highways.

AN ACT to repeal sections 61.021, 300.075, 300.080, 300.100, 300.105, 300.110, 300.125, 300.160, 300.215, 300.300, 300.348, 300.350, 300.585, 300.595, 302.130, 302.137, 302.321, 302.720, 304.001, 304.022, 304.027, 304.200, 575.010 and 575.150, RSMo, and to enact in lieu thereof thirty-four new sections relating to motor vehicles, with penalty provisions and an emergency clause for certain sections.

SECTION

- A. Enacting clause.
- 37.450. State vehicle fleet manager position created, appointment, duties — definitions.
- 37.452. Sale of surplus vehicles, proceeds to go to owning state agency, exceptions — moneys to be used for purchase of vehicles only.
- 226.1115. Property removed from roadway to be taken to shoulder or berm of roadway.
- 300.075. Authority of police and fire department officials.
- 300.080. Obedience to police and fire department officials.
- 300.100. Authorized emergency vehicles — permitted acts of drivers.
- 300.105. Operation of vehicles on approach of authorized emergency vehicles.
- 300.110. Immediate notice of accident within city.
- 300.160. Pedestrian control signals.
- 300.215. Required position and method of turning at intersection.
- 300.300. Following emergency vehicle prohibited.
- 300.348. All-terrain vehicles, prohibited — exceptions, operation of all-terrain vehicles under an exception — prohibited uses — penalty.
- 300.350. Riding bicycles, sleds, roller skates, by attaching to another vehicle, prohibited — pulling a rider behind vehicle prohibited.
- 300.585. Uniform traffic ticket to be issued when vehicle illegally parked or stopped.
- 302.130. Issuance of temporary instruction permit, when — requirements — duration — permit driver sticker or sign issued, when — rulemaking authority.
- 302.137. Motorcycle safety trust fund established, purpose — operators of motorcycles or motortricycles in violation of laws or ordinances to be assessed surcharge, collection, distribution.
- 302.321. Driving while license or driving privilege is canceled, suspended or revoked, penalty — enhanced penalty for repeat offenders — imprisonment, mandatory, exception.
- 302.720. Operation without license prohibited, exceptions — instruction permit, use, duration, fee — license, test required, contents, fee — director to promulgate rules and regulations for certification of third-party testers — certain persons prohibited from obtaining license, exceptions.
- 302.721. Third-party commercial driver license examination program created, purpose, funding — rules.
- 304.001. Definitions for chapter 304 and chapter 307.
- 304.022. Emergency vehicle defined — use of lights and sirens — right-of-way — stationary vehicles, procedure — penalty.
- 304.027. Spinal cord injury fund created, uses — surcharge imposed, when.
- 304.028. Head injury fund created, moneys in fund, uses — surcharge imposed, when.
- 304.200. Special permits for oversize or overweight loads — rules for issuing — when valid.
- 304.370. Hazardous materials, requirements for transportation — violations, penalties.
- 307.205. Defined — requirements for operation.

- 307.207. Equipment required.
- 307.209. Roadway operation, requirements.
- 307.211. Violations, penalties.
- 307.402. Inspection of state-owned vehicles, responsibility for.
- 575.010. Definitions.
- 575.145. Signal or direction of sheriff or deputy sheriff, duty to stop, motor vehicle operators and riders of animals — violation, penalty.
- 575.150. Resisting or interfering with arrest — penalty.
- 622.555. Skill performance evaluation certificate granted, when — application, procedures — rulemaking authority.
- 61.021. Residency required (certain first class counties).
- 300.125. Public inspection of reports relating to accidents.
- 300.595. Police may remove vehicle — when.
 - B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 61.021, 300.075, 300.080, 300.100, 300.105, 300.110, 300.125, 300.160, 300.215, 300.300, 300.348, 300.350, 300.585, 300.595, 302.130, 302.137, 302.321, 302.720, 304.001, 304.022, 304.027, 304.200, 575.010 and 575.150, RSMo, are repealed and thirty-four new sections enacted in lieu thereof, to be known as sections 37.450, 37.452, 226.1115, 300.075, 300.080, 300.100, 300.105, 300.110, 300.160, 300.215, 300.300, 300.348, 300.350, 300.585, 302.130, 302.137, 302.321, 302.720, 302.721, 304.001, 304.022, 304.027, 304.028, 304.200, 304.370, 307.205, 307.207, 307.209, 307.211, 307.402, 575.010, 575.145, 575.150 and 622.555, to read as follows:

37.450. STATE VEHICLE FLEET MANAGER POSITION CREATED, APPOINTMENT, DUTIES — DEFINITIONS. — 1. As used in this section, the following terms shall mean:

- (1) "Commissioner", the commissioner of administration;
- (2) "Fleet manager", the state vehicle fleet manager created pursuant to subsection 2 of this section;
- (3) "State vehicle fleet", all vehicles used by the state or titled to the state for the purpose of conducting state business; and
- (4) "Vehicle", as defined in section 301.010, RSMo.

2. There is hereby created within the office of administration the position of state vehicle fleet manager. The fleet manager shall be appointed by the commissioner of administration pursuant to the provisions of chapter 36, RSMo.

3. The fleet manager shall institute and supervise a state fleet vehicle tracking system in which the cost of owning and operating each state vehicle is documented by the agency owning the vehicle. All state agencies shall report the purchase and the sale of any vehicle to the fleet manager and provide any additional information requested by the fleet manager in the format, manner and frequency determined by the office of administration. The fleet manager shall have the authority to suspend any agency's use of its credits established pursuant to section 37.452 if the agency does not comply with the requirements of this section or section 307.402, RSMo, until he or she is satisfied that such compliance is achieved.

4. The fleet manager shall submit an annual report to the speaker of the house of representatives, the president pro tempore of the senate and the governor before January thirty-first of each year. The fleet manager's report shall consist of the status of the state vehicle fleet and any recommendations for improvements and changes necessary for more efficient management of the fleet.

5. The office of administration shall establish guidelines for determining the most cost-effective and reasonable mode of travel under the circumstances for single trips from the following options: passenger rail, vehicle rental, fleet checkout and reimbursement for personal car use.

6. The commissioner shall issue policies governing the acquisition, assignment, use, replacement and maintenance of state-owned vehicles.

7. Each agency shall pay a state vehicle fleet fee, as determined by the office of administration, for each vehicle it owns for the purpose of funding the state fleet vehicle tracking system and for other administrative expenses incurred in management of the state vehicle fleet. Any agency that owns at least one thousand vehicles shall receive a credit against the state vehicle fleet fee for the internal fleet management services performed by such agency, provided such agency furnishes all information required by the fleet manager.

8. State agencies shall be responsible for ensuring that state vehicles are used only for state business and not for private purposes.

37.452. SALE OF SURPLUS VEHICLES, PROCEEDS TO GO TO OWNING STATE AGENCY, EXCEPTIONS — MONEYS TO BE USED FOR PURCHASE OF VEHICLES ONLY. — Provisions of section 37.090 notwithstanding, all proceeds generated by the sale of a surplus vehicle, except proceeds generated from the department of transportation, the department of conservation, the Missouri state highway patrol and all state colleges and universities may be deposited in the state treasury to the credit of the office of administration revolving administrative trust fund and credited to the state agency owning the vehicle at the time of sale. Upon appropriation, moneys credited to agencies from the sale of surplus state fleet vehicles shall be used solely for the purchase of vehicles for the respective agency.

226.1115. PROPERTY REMOVED FROM ROADWAY TO BE TAKEN TO SHOULDER OR BERM OF ROADWAY. — If the department of transportation removes property from any roadway of this state pursuant to section 304.155, RSMo, such property shall be immediately taken to the shoulder or berm of the roadway, and the department employees shall not use a wrecker, tow truck or roll-back in the removal process.

300.075. AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS. — 1. It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all [street] traffic laws of the city and all of the state vehicle laws applicable to [street] traffic in the city.

2. Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws; provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

3. Officers of the fire department, when at the scene of [a fire] **an incident**, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

300.080. OBEDIENCE TO POLICE AND FIRE DEPARTMENT OFFICIALS. — No person shall [willfully] **knowingly** fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

300.100. AUTHORIZED EMERGENCY VEHICLES — PERMITTED ACTS OF DRIVERS. — 1. The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

2. The driver of an authorized emergency vehicle may:

(1) Park or stand, irrespective of the provisions of this ordinance;

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(3) Exceed the maximum speed limits so long as he does not endanger life or property;

(4) Disregard regulations governing direction of movement or turning in specified directions.

3. The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any said vehicle while in motion sounds audible signal by [bell,] siren[,] or [exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with] **while having** at least one lighted lamp [displaying] **exhibiting** a red light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle **or a flashing blue light authorized by section 307.175, RSMo.**

4. The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

300.105. OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY VEHICLES. — 1. Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only[:

(1)] the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer[;

(2) Upon the approach of an authorized emergency vehicle, as above stated, the motorman of every streetcar shall immediately stop such car clear of any intersection and keep it in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer].

2. This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

300.110. IMMEDIATE NOTICE OF ACCIDENT WITHIN CITY. — The driver of a vehicle involved in an accident **within the city** resulting in injury to or death of any person or total property damage to an apparent extent of five hundred dollars or more to one person shall [immediately by the quickest means of communication] **give, or cause to be given,** notice of such accident to the police department [if such accident occurs within the city] **as soon as reasonably possible.**

300.160. PEDESTRIAN CONTROL SIGNALS. — Whenever special pedestrian control signals exhibiting the words "Walk" or "Don't Walk", **or appropriate symbols** are in place such signals shall indicate as follows:

(1) "Walk", pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles;

(2) "Wait" or "Don't Walk", no pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety zone while the wait signal is showing.

300.215. REQUIRED POSITION AND METHOD OF TURNING AT INTERSECTION. — The driver of a vehicle intending to turn at an intersection shall do so as follows:

(1) Right turns: Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway, **except where multiple turn lanes have been established.**

(2) Left turns on two-way roadways: At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) Left turns on other than two-road roadways: At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered, **except where multiple turn lanes have been established.**

(4) **Designated two-way left turn lanes:** Where a special lane for making left turns by drivers proceeding in opposite directions have been indicated by official traffic control devices:

- (a) **A left turn shall not be made from any other lane;**
- (b) **A vehicle shall not be driven in the lane except when preparing for or making a left turn from or into the roadway or when preparing for or making a u-turn when otherwise permitted by law;**
- (c) **A vehicle shall not be driven in the lane for a distance more than five hundred feet.**

300.300. FOLLOWING EMERGENCY VEHICLE PROHIBITED. — The driver of any vehicle other than one on official business shall not follow any [fire apparatus] **emergency vehicle** traveling in response to [a fire alarm] **an emergency call** closer than five hundred feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

300.348. ALL-TERRAIN VEHICLES, PROHIBITED — EXCEPTIONS, OPERATION OF ALL-TERRAIN VEHICLES UNDER AN EXCEPTION — PROHIBITED USES — PENALTY. — 1. No person shall operate an all-terrain vehicle, as defined in section 300.010, upon the streets and highways of this city, except as follows:

- (1) All-terrain vehicles owned and operated by a governmental entity for official use;
- (2) All-terrain vehicles operated for agricultural purposes or industrial on-premises purposes between the official sunrise and sunset on the day of operation;
- (3) All-terrain vehicles whose operators carry a special permit issued by this city pursuant to section 304.013, RSMo.

2. No person shall operate an off-road vehicle, as defined in section 304.001, RSMo, within any stream or river in this city, except that off-road vehicles may be operated within waterways which flow within the boundaries of land which an off-road vehicle operator owns, or for agricultural purposes within the boundaries of land which an off-road vehicle operator owns or has permission to be upon, or for the purpose of fording such stream or river of this state at such road crossings as are customary or part of the highway system. All law enforcement officials or peace officers of this state and its political subdivisions shall enforce the provisions of this subsection within the geographic area of their jurisdiction.

3. A person operating an all-terrain vehicle on a street or highway pursuant to an exception covered in this section shall have a valid [operator's or chauffeur's] license **issued by a state authorizing such person to operate a motor vehicle**, but shall not be required to have passed an examination for the operation of a motorcycle, and the vehicle shall be operated at speeds of less than thirty miles per hour. When operated on a street or highway, an all-terrain vehicle shall

have a bicycle safety flag, which extends not less than seven feet above the ground, attached to the rear of the vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than thirty square inches and shall be day-glow in color.

4. No person shall operate an all-terrain vehicle:

(1) In any careless way so as to endanger the person or property of another;

(2) While under the influence of alcohol or any controlled substance; or

(3) Without a securely fastened safety helmet on the head of an individual who operates an all-terrain vehicle or who is being towed or otherwise propelled by an all-terrain vehicle, unless the individual is at least eighteen years of age.

5. No operator of an all-terrain vehicle shall carry a passenger, except for agricultural purposes.

6. A violation of this section shall be a class C misdemeanor.

300.350. RIDING BICYCLES, SLEDS, ROLLER SKATES, BY ATTACHING TO ANOTHER VEHICLE, PROHIBITED — PULLING A RIDER BEHIND VEHICLE PROHIBITED. — No person riding upon any bicycle, motorized bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway. **Neither shall the driver of a vehicle knowingly pull a rider behind a vehicle.**

300.585. UNIFORM TRAFFIC TICKET TO BE ISSUED WHEN VEHICLE ILLEGALLY PARKED OR STOPPED. — Whenever any motor vehicle without driver is found parked or stopped in violation of any of the restrictions imposed by ordinance of the city or by state law, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a uniform traffic ticket **or other citation** for the driver to answer to the charge against him within [five] **seven** days during the hours and at a place specified in the traffic ticket.

302.130. ISSUANCE OF TEMPORARY INSTRUCTION PERMIT, WHEN — REQUIREMENTS — DURATION — PERMIT DRIVER STICKER OR SIGN ISSUED, WHEN — RULEMAKING AUTHORITY. — 1. Any person at least fifteen years of age who, except for age or lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a license pursuant to sections 302.010 to 302.340 may apply for and the director shall issue a temporary instruction permit entitling the applicant, while having such permit in the applicant's immediate possession, to drive a motor vehicle of the appropriate class upon the highways for a period of twelve months, but any such person, except when operating a motorcycle or motortricycle, must be accompanied by a licensed operator for the type of motor vehicle being operated who is actually occupying a seat beside the driver for the purpose of giving instruction in driving the motor vehicle, who is at least twenty-one years of age, and in the case of any driver under sixteen years of age, the licensed operator occupying the seat beside the driver shall be a grandparent, parent, guardian, a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the department of elementary and secondary education or a qualified instructor of a private drivers' education program who has a valid driver's license. Beginning January 1, 2001, an applicant for a temporary instruction permit shall successfully complete a vision test and a test of the applicant's ability to understand highway signs which regulate, warn or direct traffic and practical knowledge of the traffic laws of this state, pursuant to section 302.173. In addition, beginning January 1, 2001, no permit shall be granted pursuant to this subsection unless a parent or legal guardian gives written permission by signing the application and in so signing, state they, or their designee as set forth in subsection 2 of this section, will provide a minimum of twenty hours of behind-the-wheel driving instruction. The twenty hours of behind-the-wheel driving instruction that is completed pursuant to this subsection may include any time that the holder of an instruction permit has spent operating a motor vehicle in a driver training program taught by a driver training instructor holding a valid driver education

endorsement on a teaching certificate issued by the department of elementary and secondary education or by a qualified instructor of a private drivers' education program. If the applicant for a permit is enrolled in a federal residential job training program, the instructor, as defined in subsection 5 of this section, is authorized to sign the application stating that the applicant will receive the behind-the-wheel driving instruction required by this section.

2. In the event the parent, grandparent or guardian of the person under sixteen years of age has a physical disability which prohibits or disqualifies said parent, grandparent or guardian from being a qualified licensed operator pursuant to this section, said parent, grandparent or guardian may designate a maximum of two individuals authorized to accompany the applicant for the purpose of giving instruction in driving the motor vehicle. An authorized designee must be a licensed operator for the type of motor vehicle being operated and have attained twenty-one years of age. At least one of the designees must occupy the seat beside the applicant while giving instruction in driving the motor vehicle. The name of the authorized designees must be provided to the department of revenue by the parent, grandparent or guardian at the time of application for the temporary instruction permit. The name of each authorized designee shall be printed on the temporary instruction permit, however, the director may delay the time at which permits are printed bearing such names until the inventories of blank permits and related forms existing on August 28, 1998, are exhausted.

3. The director, upon proper application on a form prescribed by the director, in his or her discretion, may issue a restricted instruction permit effective for a school year or more restricted period to an applicant who is enrolled in a high school driver training program taught by a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the state department of elementary and secondary education even though the applicant has not reached the age of sixteen years but has passed the age of fifteen years. Such instruction permit shall entitle the applicant, when the applicant has such permit in his or her immediate possession, to operate a motor vehicle on the highways, but only when a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the state department of elementary and secondary education is occupying a seat beside the driver.

4. The director, in his or her discretion, may issue a temporary driver's permit to an applicant who is otherwise qualified for a license permitting the applicant to operate a motor vehicle while the director is completing the director's investigation and determination of all facts relative to such applicant's rights to receive a license. Such permit must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused.

5. In the event that the applicant for a temporary instruction permit described in subsection 1 of this section is a participant in a federal residential job training program, the permittee may operate a motor vehicle accompanied by a driver training instructor who holds a valid driver education endorsement issued by the department of elementary and secondary education and a valid driver's license.

6. A person at least fifteen years of age may operate a motor vehicle as part of a driver training program taught by a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the department of elementary and secondary education or a qualified instructor of a private drivers' education program.

7. Beginning January 1, 2003, the director shall issue with every temporary instruction permit issued pursuant to subsection 1 of this section a sticker or sign bearing the words "PERMIT DRIVER". The design and size of such sticker or sign shall be determined by the director by regulation. Every applicant issued a temporary instruction permit and sticker on or after January 1, 2003, may display or affix the sticker or sign on the rear window of the motor vehicle. Such sticker or sign may be displayed on the rear window of the motor vehicle whenever the holder of the instruction permit operates a motor vehicle during his or her temporary permit licensure period.

8. The director may adopt rules and regulations necessary to carry out the provisions of this section.

302.137. MOTORCYCLE SAFETY TRUST FUND ESTABLISHED, PURPOSE — OPERATORS OF MOTORCYCLES OR MOTORTRICYCLES IN VIOLATION OF LAWS OR ORDINANCES TO BE ASSESSED SURCHARGE, COLLECTION, DISTRIBUTION. — 1. There is hereby created in the state treasury for use by the department of public safety a fund to be known as the "Motorcycle Safety Trust Fund". All judgments collected pursuant to this section, appropriations of the general assembly, federal grants, private donations and any other moneys designated for the motorcycle safety education program established pursuant to sections 302.133 to 302.138 shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the department of public safety, be received and expended by the department of public safety for the purpose of funding the motorcycle safety education program established under sections 302.133 to 302.138. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the motorcycle safety trust fund at the end of any biennium shall not be transferred to the general revenue fund.

2. [Any person who violates a Missouri law or a municipal or county ordinance, when the court finds that the violation occurred when the defendant was the operator of a motorcycle or motortricycle, shall have a judgment entered against the defendant in favor of the state of Missouri motorcycle safety trust fund, in the amount of five dollars. Any motor vehicle operator who violates a state law or municipal or county ordinance where the violation involves a motorcycle or motortricycle or where the operator causes an accident involving a motorcycle or motortricycle shall have a judgment entered against the defendant in favor of the state of Missouri motorcycle safety trust fund, of an additional amount of five dollars.

3. The amounts assessable as judgments pursuant to this section shall be doubled if the operator at fault is found by the court to have violated any state law or local ordinance relating to the consumption of alcohol.

4. The judgments collected pursuant to this section shall be paid into the state treasury to the credit of the motorcycle safety trust fund created in this section. Any court clerk receiving funds pursuant to judgments entered pursuant to this section shall collect and disburse such amounts as provided in sections 488.010 to 488.020, RSMo.] **In all criminal cases, including violations of any county ordinance or any violation of criminal or traffic laws of this state, including an infraction, there shall be assessed as costs a surcharge in the amount of one dollar. No such surcharge shall be collected in any proceeding involving a violation of an ordinance or state law when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality.**

3. **Such surcharge shall be collected and distributed by the clerk of the court as provided in sections 488.010 to 488.020, RSMo. The surcharge collected pursuant to this section shall be paid to the state treasury to the credit of the motorcycle safety trust fund established in this section.**

302.321. DRIVING WHILE LICENSE OR DRIVING PRIVILEGE IS CANCELED, SUSPENDED OR REVOKED, PENALTY — ENHANCED PENALTY FOR REPEAT OFFENDERS — IMPRISONMENT, MANDATORY, EXCEPTION. — 1. A person commits the crime of driving while revoked if he operates a motor vehicle on a highway when his license or driving privilege has been canceled, suspended or revoked under the laws of this state **or any other state** and acts with criminal negligence with respect to knowledge of the fact that his driving privilege has been canceled, suspended or revoked.

2. Any person convicted of driving while revoked is guilty of a class A misdemeanor. Any person with no prior alcohol-related enforcement contacts as defined in section 302.525, convicted a fourth or subsequent time of driving while revoked **or a county or municipal ordinance of driving while suspended or revoked where the judge in such case was an**

attorney and the defendant was represented by or waived the right to an attorney in writing, and where the prior three driving while revoked offenses occurred within ten years of the date of occurrence of the present offense and where the person received and served a sentence of ten days or more on such previous offenses; and any person with a prior alcohol-related enforcement contact as defined in section 302.525, convicted a third or subsequent time of driving while revoked or a county or municipal ordinance of driving while suspended or revoked where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing, and where the prior two driving while revoked offenses occurred within ten years of the date of occurrence of the present offense and where the person received and served a sentence of ten days or more on such previous offenses is guilty of a class D felony. No court shall suspend the imposition of sentence as to such a person nor sentence such person to pay a fine in lieu of a term of imprisonment, nor shall such person be eligible for parole or probation until he has served a minimum of forty-eight consecutive hours of imprisonment, unless as a condition of such parole or probation, such person performs at least ten days involving at least forty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. Driving while revoked is a class D felony on the second or subsequent conviction pursuant to section 577.010, RSMo, or a fourth or subsequent conviction for any other offense.

302.720. OPERATION WITHOUT LICENSE PROHIBITED, EXCEPTIONS — INSTRUCTION PERMIT, USE, DURATION, FEE — LICENSE, TEST REQUIRED, CONTENTS, FEE — DIRECTOR TO PROMULGATE RULES AND REGULATIONS FOR CERTIFICATION OF THIRD-PARTY TESTERS — CERTAIN PERSONS PROHIBITED FROM OBTAINING LICENSE, EXCEPTIONS. — 1. Except when operating under an instruction permit as described in this section, no person may drive a commercial motor vehicle unless the person has been issued a commercial driver's license with applicable endorsements valid for the type of vehicle being operated as specified in sections 302.700 to 302.780. A commercial driver's instruction permit shall allow the holder of a valid license to operate a commercial motor vehicle when accompanied by the holder of a commercial driver's license valid for the vehicle being operated and who occupies a seat beside the individual, or reasonably near the individual in the case of buses, for the purpose of giving instruction in driving the commercial motor vehicle. A commercial driver's instruction permit shall be valid for the vehicle being operated for a period of not more than six months, and shall not be issued until the permit holder has met all other requirements of sections 302.700 to 302.780, except for the driving test. A permit holder, unless otherwise disqualified, may be granted one six-month renewal within a one-year period. The fee for such permit or renewal shall be five dollars. In the alternative, a commercial driver's instruction permit shall be issued for a thirty-day period to allow the holder of a valid driver's license to operate a commercial motor vehicle if the applicant has completed all other requirements except the driving test. The permit may be renewed for one additional thirty-day period and the fee for the permit and for renewal shall be five dollars.

2. No person may be issued a commercial driver's license until he has passed written and driving tests for the operation of a commercial motor vehicle which complies with the minimum federal standards established by the secretary and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570), as well as any other requirements imposed by state law. **Applicants for a hazardous materials endorsement must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and required by regulations promulgated by the secretary.** Nothing contained in this subsection shall be construed as prohibiting the director from establishing alternate testing formats for those who are functionally illiterate; provided, however, that any such alternate test must comply with the minimum requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570) as established by the secretary.

(1) The written and driving tests shall be held at such times and in such places as the [director] **superintendent** may designate. A [five-dollar] **twenty-five dollar** examination fee shall be paid by the applicant upon completion of any written or driving test. The director shall delegate the power to conduct the examinations required under sections 302.700 to 302.780 to any member of the highway patrol or any person employed by the highway patrol qualified to give driving examinations.

(2) The director shall adopt and promulgate rules and regulations governing the certification of third-party testers by the department of revenue. Such rules and regulations shall substantially comply with the requirements of 49 CFR Part 383, Section 383.75. A certification to conduct third-party testing shall be valid for one year, and the department shall charge a fee of one hundred dollars to issue or renew the certification of any third-party tester. Any third-party tester who violates any of the rules and regulations adopted and promulgated pursuant to this section shall be subject to having his certification revoked by the department. The department shall provide written notice and an opportunity for the third-party tester to be heard in substantially the same manner as provided in chapter 536, RSMo. If any applicant submits evidence that he has successfully completed a test administered by a third-party tester, the actual driving test for a commercial driver's license may then be waived.

(3) Every applicant for renewal of a commercial driver's license shall provide such certifications and information as required by the secretary and if such person transports a hazardous material **must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and required by regulations promulgated by the secretary**, such person shall be required to take the written test for such endorsement. A [five-dollar] **twenty-five dollar** examination fee shall be paid for [each test taken] **upon completion of such tests**.

3. [The director may waive the driving test for a commercial driver's license if such applicant provides the certifications required by regulations established by the secretary as a substitute for the driving test and holds a valid license.

4. The certifications may include, but not be limited to, stating that during the two-year period immediately prior to applying for a commercial driver's license the applicant:

- (1) Has not had more than one license;
- (2) Has not had any license suspended, revoked, canceled or disqualified;
- (3) Has not had a conviction in any type of motor vehicle for driving while intoxicated, driving while under the influence of alcohol or controlled substance, leaving the scene of an accident or felony involving the use of a commercial motor vehicle;
- (4) Has not violated any state law or county or municipal ordinance relating to the operation of a motor vehicle in connection with an accident; and
- (5) Has no record of an accident in which such applicant was at fault.

5. In order to be valid as a certification exempting the applicant from the driving test, the applicant shall also provide evidence and certify that:

(1) He is regularly employed in a job requiring him to drive a commercial motor vehicle; and

(2) He has previously taken and passed a driving test given by a state with a classified licensing and testing system, and that the test was behind the wheel in a representative vehicle for that applicant's license classification; or

(3) He has operated, for at least two years immediately preceding application for a commercial driver's license, a vehicle representative of the commercial motor vehicle the applicant drives or expects to drive.

6.] A commercial driver's license may not be issued to a person while the person is disqualified from driving a commercial motor vehicle, when a disqualification is pending in any state or while the person's driver's license is suspended, revoked, or canceled in any state; nor may a commercial driver's license be issued unless the person first surrenders in a manner

prescribed by the director any commercial driver's license issued by another state, which license shall be returned to the issuing state for cancellation.

302.721. THIRD-PARTY COMMERCIAL DRIVER LICENSE EXAMINATION PROGRAM CREATED, PURPOSE, FUNDING — RULES. — 1. There shall be created a "Third-Party Commercial Driver License Examination Program" within the department of revenue. The purpose of this program is to certify third-party commercial driver license examination programs and administer compliance requirements of third-party commercial driver license examination programs in the state of Missouri.

2. Funds may be appropriated from the state highways and transportation department fund for department of revenue administrative costs associated with initial certification and subsequent renewal certification requirements associated with third-party commercial driver license examination programs and determining compliance of all regulations that are required to be adhered to by third-party commercial driver license examination programs in the state of Missouri. Funds may also be appropriated from the state highways and transportation department fund for the highway patrol for functions related to the testing, auditing, retesting, and compliance of commercial driver license third-party examination programs, and the administration of the state CDL testing program.

(1) The director of revenue shall promulgate rules and regulations necessary to administer the certification and compliance programs established pursuant to this section. Any rule promulgated regarding commercial driver license third-party examination certification or compliance shall be promulgated in coordination with the superintendent of the highway patrol.

(2) Any rule promulgated by the director of revenue and the superintendent of the highway patrol regarding compliance requirements for third-party commercial driver license examination programs shall require the superintendent to reexamine a minimum of ten percent of those drivers who have passed the CDL skills examination administered by a certified third-party commercial driver license examination program in the state of Missouri.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

304.001. DEFINITIONS FOR CHAPTER 304 AND CHAPTER 307. — As used in this chapter and chapter 307, RSMo, the following terms shall mean:

(1) "Abandoned property", any unattended motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel removed or subject to removal from public or private property as provided in sections 304.155 and 304.157, whether or not operational. **For any vehicle towed from the scene of an accident at the request of law enforcement and not retrieved by the vehicle's owner within five days of the accident, the agency requesting the tow shall be required to write an abandoned property report or a crime inquiry and inspection report;**

(2) "Commercial vehicle enforcement officers", employees of the Missouri state highway patrol who are not members of the patrol but who are appointed by the superintendent of the highway patrol to enforce the laws, rules, and regulations pertaining to commercial vehicles, trailers, special mobile equipment and drivers of such vehicles;

(3) "Commercial vehicle inspectors", employees of the Missouri state highway patrol who are not members of the patrol but who are appointed by the superintendent of the highway patrol to supervise or operate permanent or portable weigh stations in the enforcement of commercial vehicle laws;

(4) "Commission", the state highways and transportation commission;

(5) "Department", the state transportation department;

(6) "Freeway", a divided state highway with four or more lanes, with no access to the throughways except the established interchanges and with no at-grade crossings;

(7) "Interstate highway", a state highway included in the national system of interstate highways located within the boundaries of Missouri, as officially designated or as may be hereafter designated by the state highways and transportation commission with the approval of the Secretary of Transportation, pursuant to Title 23, U.S.C., as amended;

(8) "Members of the patrol", the superintendent, lieutenant colonel, majors, captains, director of radio, lieutenants, sergeants, corporals and patrolmen of the Missouri state highway patrol;

(9) "Off-road vehicle", any vehicle designed for or capable of cross-country travel on or immediately over land, water, ice, snow, marsh, swampland, or other natural terrain without benefit of a road or trail:

(a) Including, without limitation, the following:

a. Jeeps;

b. All-terrain vehicles;

c. Dune buggies;

d. Multiwheel drive or low-pressure tire vehicles;

e. Vehicle using an endless belt, or tread or treads, or a combination of tread and low-pressure tires;

f. Motorcycles, trail bikes, minibikes and related vehicles;

g. Any other means of transportation deriving power from any source other than muscle or wind; and

(b) Excluding the following:

a. Registered motorboats;

b. Aircraft;

c. Any military, fire or law enforcement vehicle;

d. Farm-type tractors and other self-propelled equipment for harvesting and transporting farm or forest products;

e. Any vehicle being used for farm purposes, earth moving, or construction while being used for such purposes on the work site;

f. Self-propelled lawnmowers, or lawn or garden tractors, or golf carts, while being used exclusively for their designed purpose; and

g. Any vehicle being used for the purpose of transporting a handicapped person;

(10) "Person", any natural person, corporation, or other legal entity;

(11) "Right-of-way", the entire width of land between the boundary lines of a state highway, including any roadway;

(12) "Roadway", that portion of a state highway ordinarily used for vehicular travel, exclusive of the berm or shoulder;

(13) "State highway", a highway constructed or maintained by the state highways and transportation commission with the aid of state funds or United States government funds, or any highway included by authority of law in the state highway system, including all right-of-way;

(14) "Towing company", any person or entity which tows, removes or stores abandoned property;

(15) "Urbanized area", an area with a population of fifty thousand or more designated by the Bureau of the Census, within boundaries to be fixed by the state highways and transportation commission and local officials in cooperation with each other and approved by the Secretary of

Transportation. The boundary of an urbanized area shall, at a minimum, encompass the entire urbanized area as designed by the Bureau of the Census.

304.022. EMERGENCY VEHICLE DEFINED — USE OF LIGHTS AND SIRENS — RIGHT-OF-WAY — STATIONARY VEHICLES, PROCEDURE — PENALTY. — 1. Upon the immediate approach of an emergency vehicle giving audible signal by siren or while having at least one lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle or a flashing blue light authorized by section 307.175, RSMo, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as far as possible to the right of, the traveled portion of the highway and thereupon stop and remain in such position until such emergency vehicle has passed, except when otherwise directed by a police or traffic officer.

2. Upon approaching a stationary emergency vehicle displaying lighted red or red and blue lights, the driver of every motor vehicle shall:

(1) Proceed with caution and yield the right-of-way, if possible with due regard to safety and traffic conditions, by making a lane change into a lane not adjacent to that of the stationary vehicle, if on a roadway having at least four lanes with not less than two lanes proceeding in the same direction as the approaching vehicle; or

(2) Proceed with due caution and reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be unsafe or impossible.

3. The motorman of every streetcar shall immediately stop such car clear of any intersection and keep it in such position until the emergency vehicle has passed, except as otherwise directed by a police or traffic officer.

[3.] **4.** An "emergency vehicle" is a vehicle of any of the following types:

(1) A vehicle operated by the state highway patrol, the state water patrol or a state park ranger, those vehicles operated by enforcement personnel by the division of motor carrier and railroad safety of the department of economic development, police or fire department, sheriff, constable or deputy sheriff, federal law enforcement officer authorized to carry firearms and to make arrests for violations of the laws of the United States, traffic officer or coroner or by a privately owned emergency vehicle company;

(2) A vehicle operated as an ambulance or operated commercially for the purpose of transporting emergency medical supplies or organs;

(3) Any vehicle qualifying as an emergency vehicle pursuant to section 307.175, RSMo;

(4) Any wrecker, or tow truck or a vehicle owned and operated by a public utility or public service corporation while performing emergency service;

(5) Any vehicle transporting equipment designed to extricate human beings from the wreckage of a motor vehicle;

(6) Any vehicle designated to perform emergency functions for a civil defense or emergency management agency established pursuant to the provisions of chapter 44, RSMo;

(7) Any vehicle operated by an authorized employee of the department of corrections, who as part of the employee's official duties, is responding to a riot, disturbance, hostage incident, escape or other critical situation where there is the threat of serious physical injury or death, responding to mutual aid call from another criminal justice agency, or in accompanying an ambulance which is transporting an offender to a medical facility;

(8) Any vehicle designated to perform hazardous substance emergency functions established pursuant to the provisions of sections 260.500 to 260.550, RSMo.

[4.] **5.** (1) The driver of any vehicle referred to in subsection [3] 4 of this section shall not sound the siren thereon or have the front red lights or blue lights on except when such vehicle is responding to an emergency call or when in pursuit of an actual or suspected law violator, or when responding to, but not upon returning from, a fire;

(2) The driver of an emergency vehicle may:

(a) Park or stand irrespective of the provisions of sections 304.014 to 304.026;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the prima facie speed limit so long as the driver does not endanger life or property;

(d) Disregard regulations governing direction of movement or turning in specified directions;

(3) The exemptions herein granted to an emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light or blue light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle.

[5.] 6. No person shall purchase an emergency light as described in this section without furnishing the seller of such light an affidavit stating that the light will be used exclusively for emergency vehicle purposes.

[6.] 7. Violation of this section shall be deemed a class C misdemeanor.

304.027. SPINAL CORD INJURY FUND CREATED, USES — SURCHARGE IMPOSED, WHEN.

— 1. There is hereby created in the state treasury for use by the board of curators of the University of Missouri a fund to be known as the "Spinal Cord Injury Fund". All judgments collected pursuant to this section, appropriations of the general assembly, federal grants, private donations and any other moneys designated for the spinal cord injury fund established pursuant to sections 302.133 to 302.138, RSMo, shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the board of curators, be received and expended by the board for the purpose of funding research projects that promote an advancement of knowledge in the area of spinal cord injury. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the spinal cord injury fund at the end of any biennium shall not be transferred to the general revenue fund.

2. [Any person who is convicted of an intoxication-related offense, as defined by section 577.023, RSMo, shall have a judgment entered against the defendant in favor of the spinal cord injury fund, in the amount of twenty-five dollars.

3.] **In all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of this state, including an infraction, there shall be assessed as costs a surcharge in the amount of two dollars. No such surcharge shall be collected in any proceeding involving a violation of an ordinance or state law when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. Such surcharge shall be collected and disbursed by the clerk of the court as provided by sections 488.010 to 488.020.** The [judgments] surcharge collected pursuant to this section shall be paid into the state treasury to the credit of the spinal cord injury fund created in this section. [Any court clerk receiving funds pursuant to judgments entered pursuant to this section shall collect and disburse such amounts as provided in sections 488.010 to 488.020, RSMo.]

304.028. HEAD INJURY FUND CREATED, MONEYS IN FUND, USES — SURCHARGE IMPOSED, WHEN. — 1. There is hereby created in the state treasury for use by the Missouri Head Injury Advisory Council a fund to be known as the "Head Injury Fund". All judgments collected pursuant to this section, federal grants, private donations and any other moneys designated for the head injury fund shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the office of administration, be received and expended by the council for the purpose of transition and integration of medical, social and educational services or activities for purposes of outreach and short-term supports to enable individuals with traumatic head injury and their families to live in the community, including counseling and mentoring the families.

Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the head injury fund at the end of any biennium shall not be transferred to the general revenue fund.

2. In all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of this state, including an infraction, there shall be assessed as costs a surcharge in the amount of two dollars. No such surcharge shall be collected in any proceeding involving a violation of an ordinance or state law when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality.

3. Such surcharge shall be collected and distributed by the clerk of the court as provided in sections 488.010 to 488.020, RSMo. The surcharge collected pursuant to this section shall be paid to the state treasury to the credit of the head injury fund established in this section.

304.200. SPECIAL PERMITS FOR OVERSIZE OR OVERWEIGHT LOADS — RULES FOR ISSUING — WHEN VALID. — 1. The chief engineer of the state department of transportation, for good cause shown and when the public safety or public interest so justifies, shall issue special permits for vehicles or equipment exceeding the limitations on width, length, height and weight herein specified, or which are unable to maintain minimum speed limits. Such permits shall be issued only for a single trip or for a definite period, not beyond the date of expiration of the vehicle registration, and shall designate the highways and bridges which may be used pursuant to the authority of such permit.

2. The chief engineer of the state department of transportation shall upon proper application and at no charge issue a special permit to any person allowing the movement on state and federal highways of farm products between sunset and sunrise not in excess of fourteen feet in width. Special permits allowing movement of oversize loads of farm products shall allow for movement between sunset and sunrise, subject to appropriate requirements for safety lighting on the load, appropriate limits on load dimensions and appropriate consideration of high traffic density between sunset and sunrise on the route to be traveled. [The chief engineer may also issue upon proper application a special permit to any person allowing the movement on the state and federal highways of vehicles hauling lumber products and earth-moving equipment not in excess of fourteen feet in width.] The chief engineer may also issue upon proper application a special permit to any person allowing the movement on the state and federal highways of concrete pump trucks or well-drillers equipment. For the purposes of this section, "farm products" shall have the same meaning as provided in section 400.9-109, RSMo.

3. Rules and regulations for the issuance of special permits shall be prescribed by the state highways and transportation commission and filed with the secretary of state. No rule or portion of a rule promulgated pursuant to the authority of section 304.010 and this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

4. The officer in charge of the maintenance of the streets of any municipality may issue such permits for the use of the streets by such vehicles within the limits of such municipalities.

5. In order to transport manufactured homes, as defined in section 700.010, RSMo, on the roads, highways, bridges and other thoroughfares within this state, only the applicable permits required by this section shall be obtained.

304.370. HAZARDOUS MATERIALS, REQUIREMENTS FOR TRANSPORTATION — VIOLATIONS, PENALTIES. — 1. For the purpose of this section, hazardous materials shall be defined pursuant to Part 397, Title 49, Code of Federal Regulations, as adopted and amended.

2. No person shall transport hazardous materials in or through any highway tunnel in this state. For purposes of this section, a tunnel shall be defined as a horizontal

subterranean passageway through or under an obstruction of a length of one hundred yards or more.

3. No person shall park a vehicle containing hazardous materials within three hundred feet of any highway tunnel in this state except as provided pursuant to Part 397, Title 49, Code of Federal Regulations, as such regulations have been and may periodically be amended.

4. Any person who is found or pleads guilty to a violation of this section shall be guilty of a class B misdemeanor. Any person who is found or pleads guilty to a second or subsequent violation of this section shall be guilty of a class A misdemeanor. Violations of this section shall be enforced pursuant to section 390.201, RSMo.

307.205. DEFINED — REQUIREMENTS FOR OPERATION. — 1. For the purposes of sections 307.205 to 307.211, "electric personal assistive mobility device" (EPAMD) shall mean a self-balancing, two nontandem wheeled device, designed to transport only one person, with an electric propulsion system with an average power of seven hundred fifty watts (one horsepower), whose maximum speed on a paved level surface, when powered solely by such a propulsion system while ridden by an operator who weighs one hundred seventy pounds, is less than twenty miles per hour.

2. An electric personal assistive mobility device may be operated upon a street, highway, sidewalk, and bicycle path. Every person operating such a device shall be granted all of the rights and be subject to all of the duties applicable to a pedestrian pursuant to chapter 304, RSMo.

3. Persons under sixteen years of age shall not operate an electric personal assistive mobility device, except for an operator with a mobility-related disability.

4. An electric personal assistive mobility device shall be operated only on roadways with a speed limit of forty-five miles per hour or less. This shall not prohibit the use of such device when crossing roadways with speed limits in excess of forty-five miles per hour.

5. A city or town shall have the authority to impose additional regulations on the operation of an electric personal assistive mobility device within its city or town limits.

307.207. EQUIPMENT REQUIRED. — Every electric personal assistive mobility device (EPAMD) when in use on a roadway during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with the following:

(1) A front-facing lamp on the front or carried by the rider which shall emit a white light visible at night under normal atmospheric conditions on a straight, level, unlighted roadway at five hundred feet;

(2) A rear-facing red reflector, at least two square inches in reflective surface area, or a rear-facing red lamp, on the rear which shall be visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lower beams of vehicle headlights at six hundred feet.

307.209. ROADWAY OPERATION, REQUIREMENTS. — Every person operating an electric personal assistive mobility device (EPAMD) at less than the posted speed or slower than the flow of traffic upon a street or highway shall ride as near to the right side of the roadway as safe, exercising due care when passing a standing vehicle or one proceeding in the same direction, except when making a left turn, when avoiding hazardous conditions, when the lane is too narrow to share with another vehicle, or when on a one-way street.

307.211. VIOLATIONS, PENALTIES. — Any person seventeen years of age or older who violates any provision of sections 307.205 to 307.211 is guilty of an infraction and, upon conviction thereof, shall be punished by a fine of not less than five dollars nor more than

twenty-five dollars. Such an infraction does not constitute a crime and conviction shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense. If any person under seventeen years of age violates any provision of section 307.205 to 307.211 in the presence of a peace officer possessing the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, said officer may impound the electric personal assistive mobility device (EPAMD) involved for a period not to exceed five days upon issuance of a receipt to the child riding it or to its owner.

307.402. INSPECTION OF STATE-OWNED VEHICLES, RESPONSIBILITY FOR. — All state agencies owning motor vehicles shall be responsible for obtaining an inspection of each of their vehicle's mechanism and equipment in accordance with the provisions of sections 307.350 to 307.402 and obtaining a certificate of inspection and approval and a sticker, seal or other device from a duly authorized official inspection station.

575.010. DEFINITIONS. — The following definitions shall apply to chapters 575 and 576, RSMo:

(1) "Affidavit" means any written statement which is authorized or required by law to be made under oath, and which is sworn to before a person authorized to administer oaths;

(2) "Government" means any branch or agency of the government of this state or of any political subdivision thereof;

(3) "**Highway**", means any public road or thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;

[(3)] (4) "Judicial proceeding" means any official proceeding in court, or any proceeding authorized by or held under the supervision of a court;

[(4)] (5) "Juror" means a grand or petit juror, including a person who has been drawn or summoned to attend as a prospective juror;

[(5)] (6) "Jury" means a grand or petit jury, including any panel which has been drawn or summoned to attend as prospective jurors;

[(6)] (7) "Official proceeding" means any cause, matter, or proceeding where the laws of this state require that evidence considered therein be under oath or affirmation;

[(7)] (8) "Police animal" means a dog, horse or other animal used in law enforcement or a correctional facility, or by a municipal police department, fire department, search and rescue unit or agency, whether the animal is on duty or not on duty. The term shall include, but not be limited to, accelerant detection dogs, bomb detection dogs, narcotic detection dogs, search and rescue dogs and tracking animals;

[(8)] (9) "Public record" means any document which a public servant is required by law to keep;

[(9)] (10) "Testimony" means any oral statement under oath or affirmation;

[(10)] (11) "Victim" means any natural person against whom any crime is deemed to have been perpetrated or attempted;

[(11)] (12) "Witness" means any natural person:

(a) Having knowledge of the existence or nonexistence of facts relating to any crime; or

(b) Whose declaration under oath is received as evidence for any purpose; or

(c) Who has reported any crime to any peace officer or prosecutor; or

(d) Who has been served with a subpoena issued under the authority of any court of this state.

575.145. SIGNAL OR DIRECTION OF SHERIFF OR DEPUTY SHERIFF, DUTY TO STOP, MOTOR VEHICLE OPERATORS AND RIDERS OF ANIMALS — VIOLATION, PENALTY. — It shall be the duty of the operator or driver of any vehicle or the rider of any animal traveling

on the highways of this state to stop on signal of any sheriff or deputy sheriff and to obey any other reasonable signal or direction of such sheriff or deputy sheriff given in directing the movement of traffic on the highways. Any person who willfully fails or refuses to obey such signals or directions or who willfully resists or opposes a sheriff or deputy sheriff in the proper discharge of his or her duties shall be guilty of a class A misdemeanor and on conviction thereof shall be punished as provided by law for such offenses.

575.150. RESISTING OR INTERFERING WITH ARREST — PENALTY. — 1. A person commits the crime of resisting or interfering with arrest, **detention, or stop** if, knowing that a law enforcement officer is making an arrest, or attempting to lawfully detain or stop an individual or vehicle, or the person reasonably should know that a law enforcement officer is making an arrest or attempting to lawfully detain or lawfully stop an individual or vehicle, for the purpose of preventing the officer from effecting the arrest, stop or detention, the person:

(1) Resists the arrest, stop or detention of such person by using or threatening the use of violence or physical force or by fleeing from such officer; or

(2) Interferes with the arrest, stop or detention of another person by using or threatening the use of violence, physical force or physical interference.

2. This section applies to arrests, stops or detentions with or without warrants and to arrests, stops or detentions for any crime, infraction or ordinance violation.

3. **A person is presumed to be fleeing a vehicle stop if that person continues to operate a motor vehicle after that person has seen or should have seen clearly visible emergency lights or has heard or should have heard an audible signal emanating from the law enforcement vehicle pursuing that person.**

4. It is no defense to a prosecution pursuant to subsection 1 of this section that the law enforcement officer was acting unlawfully in making the arrest. However, nothing in this section shall be construed to bar civil suits for unlawful arrest.

[4. Resisting, by means other than flight, or interfering with an arrest for a felony, is a class D felony; otherwise, resisting or interfering with arrest is a class A misdemeanor.]

5. **Resisting or interfering with an arrest for a felony is a class D felony. Resisting an arrest by fleeing in such a manner that the person fleeing creates a substantial risk of serious physical injury or death to any person is a class D felony; otherwise, resisting or interfering with an arrest, detention or stop is a class A misdemeanor.**

622.555. SKILL PERFORMANCE EVALUATION CERTIFICATE GRANTED, WHEN — APPLICATION, PROCEDURES — RULEMAKING AUTHORITY. — 1. The division of motor carrier and railroad safety may grant a skill performance evaluation certificate to a person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41. A skill performance evaluation certificate granted pursuant to this section shall apply to intrastate transportation only. The skill performance evaluation certificate shall be in the possession of the commercial driver any time he or she is operating a commercial motor vehicle.

2. A person who wishes to obtain a skill performance evaluation certificate under this section shall submit to the division the following information:

- (1) The applicant's name, address, and telephone number;
- (2) The name, address, and telephone number of an employer co-applicant, if any;
- (3) A description of the applicant's experience in driving the type of vehicle to be operated under the skill performance evaluation certificate;
- (4) A description of the type of driving to be done under the skill performance evaluation certificate;

(5) A description of any modifications to the vehicle the applicant intends to drive under the skill performance evaluation certificate that are designed to accommodate the applicant's medical condition or disability;

(6) Whether the applicant has previously been granted another skill performance evaluation certificate pursuant to this section;

(7) A copy of the applicant's current commercial driver's license;

(8) A copy of a medical examiner's certificate showing that the applicant is medically unqualified to drive;

(9) A statement from the applicant's treating physician that includes:

(a) The extent to which the physician is familiar with the applicant's medical history;

(b) A description of the applicant's medical condition for which a skill performance evaluation certificate is necessary;

(c) Assurance that the applicant has the ability and willingness to follow any course of treatment prescribed by the physician, including the ability to self-monitor or manage the medical condition; and

(d) The physician's professional opinion that the applicant's condition will not adversely affect the applicant's ability to operate a commercial motor vehicle safely; and

(10) Any other information considered necessary by the division including requiring a physical examination or medical report from a physician who specializes in a particular field of medical practice.

3. The division of motor carrier and railroad safety shall promulgate rules and regulations to provide skill performance evaluation certificates for individuals who have failed to meet the specified federal driver's physical qualifications under 49 CFR 391.41. Any rule or regulation promulgated shall only authorize such individual to operate a commercial motor vehicle within Missouri. The regulations promulgated pursuant to this section may only be implemented if the United States Department of Transportation (USDOT) will not impose any sanctions, including funding sanctions, against the state.

4. As used in this section, the term "skill performance evaluation certificate" means approval granted by the division of motor carrier and railroad safety allowing a driver to drive commercial motor vehicles intrastate even though the driver may not meet the minimum federal fitness standards to drive commercial motor vehicles interstate.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

[61.021. RESIDENCY REQUIRED (CERTAIN FIRST CLASS COUNTIES). — The county highway administrator shall be a resident of the state of Missouri.]

[300.125. PUBLIC INSPECTION OF REPORTS RELATING TO ACCIDENTS. — 1. All written reports made by persons involved in accidents or by garages shall be without prejudice to the individual so reporting and shall be for the confidential use of the police department or other governmental agencies having use for the records for accident prevention purposes, except that the police department or other governmental agency may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident.

2. No written reports forwarded under the provisions of this section shall be used as evidence in any trial, civil or criminal, arising out of an accident except that the police

department shall furnish upon demand of any party to such trial, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department in compliance with law, and, if such report has been made, the date, time and location of the accident, the names and addresses of the drivers, the owners of the vehicles involved, and the investigating officers.]

[300.595. POLICE MAY REMOVE VEHICLE — WHEN.— 1. Members of the police department are authorized to remove a vehicle from a street or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the police department, or otherwise maintained by the city under the circumstances hereinafter enumerated:

(1) When any vehicle is left unattended upon any bridge, viaduct, or causeway, or in any tube or tunnel where such vehicle constitutes an obstruction to traffic;

(2) When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is by reason of physical injury incapacitated to such an extent as to be unable to provide its custody or removal;

(3) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.

2. Whenever an officer removes a vehicle from a street as authorized in this section and the officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefor and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.

3. Whenever an officer removes a vehicle from a street under this section and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as hereinbefore provided, and in the event the vehicle is not returned to the owner within a period of three days, then and in that event the officer shall immediately send or cause to be sent a written report of such removal by mail to the state department whose duty it is to register motor vehicles, and shall file a copy of such notice with the proprietor of any public garage in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, the date, time, and place from which removed, the reasons for such removal, and the name of the garage or place where the vehicle is stored.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to provide more efficient tracking and administration of state-owned vehicles, the enactment of sections 37.450, 37.452 and 307.402 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of sections 37.450, 37.452 and 307.402 of this act shall be in full force and effect upon its passage and approval.

Approved July 11, 2002

HB 1342 [HB 1342]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Provides for county political party committee membership when only one candidate files.

AN ACT to repeal section 115.613, RSMo, and to enact in lieu thereof one new section relating to political party committeemen and committeewomen, with an emergency clause.

SECTION

A. Enacting clause.

115.613. Committeeman and committeewoman, how selected — tie vote, effect of — if no person elected a vacancy created — single candidate, effect of.

B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 115.613, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 115.613, to read as follows:

115.613. COMMITTEEMAN AND COMMITTEEWOMAN, HOW SELECTED — TIE VOTE, EFFECT OF — IF NO PERSON ELECTED A VACANCY CREATED — SINGLE CANDIDATE, EFFECT OF. — 1. Except as provided in subsection 4 of this section, the qualified man and woman receiving the highest number of votes from each committee district for committeeman and committeewoman of a party shall be members of the county committee of the party.

2. If two or more qualified persons receive an equal number of votes for county committeeman or committeewoman of a party and a higher number of votes than any other qualified person from the party, a vacancy shall exist on the county committee which shall be filled by a majority of the committee in the manner provided in section 115.617.

3. If no qualified person is elected county committeeman or committeewoman from a committee district for a party, a vacancy shall exist on the county committee which shall be filled by a majority of the committee in the manner provided in section 115.617.

4. The provisions of this subsection shall apply only in any county where no filing fee is required for filing a declaration of candidacy for committeeman or committeewoman in a committee district. **If only one qualified candidate has filed a declaration of candidacy for committeeman or committeewoman in a committee district for a party prior to the deadline established by law, no election shall be held for committeeman or committeewoman in the committee district for that party and the election authority shall certify the qualified candidate in the same manner and at the same time as candidates elected pursuant to subsection 1 of this section are certified.** If no qualified candidate files for committeeman or committeewoman in a committee district for a party, no election shall be held and a vacancy shall exist on the county committee which shall be filled by a majority of the committee in the manner provided in section 115.617. [The state shall pay the cost of producing ballots for any election held for the purposes of this subsection. The election authority shall pay all public notice costs for any election held pursuant to this subsection.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure fiscal savings for the state, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 3, 2002

HB 1348 [CCS SS#2 SCS HB 1348]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes referendums on boll weevil suppression from every 5 to every 7 years.

AN ACT to repeal sections 142.028, 254.020, 254.040, 261.110, 261.230, 261.235, 261.239, 263.531, 270.170, 275.464, 311.554, 348.430, 348.432, 407.592, 407.750, 407.751, 407.752, 407.850, 407.860, 407.870, 407.890, 407.892, 407.893 and 414.032, RSMo, and to enact in lieu thereof twenty-seven new sections relating to agriculture, with penalty provisions and a severability clause.

SECTION

- A. Enacting clause.
- 142.028. Definitions — fuel ethanol producer defined — Missouri qualified producer incentive fund created, purpose — administration of fund — grants to producers, amount, computation, paid when — application for grant, content, qualifications, bonding — rules authorized.
- 142.031. Missouri qualified biodiesel producer fund created — eligibility for grants — rulemaking authority.
- 254.020. Definitions.
- 254.040. Designation as forest croplands, application for — refusal, appeal from — size of tract and value limitations.
- 254.225. Forest landowner cost-share incentive program authorized, reimbursements provided, when — application, procedure.
- 261.110. Department of agriculture to develop standards and labeling for organic farming — rulemaking authority.
- 261.120. Organic production and certification fee fund created.
- 261.230. AgriMissouri marketing program and agricultural products by category, rules authorized, director's duty.
- 261.235. Missouri agricultural products marketing development fund, created, purposes, lapse of fund into general revenue prohibited — advisory commission for marketing Missouri agricultural products, created, purposes, duties, membership — trademark fees.
- 261.239. Department of agriculture to create web site to foster marketing of Missouri agricultural products.
- 261.240. Rulemaking authority.
- 263.531. Referendum defeated — organization may call other referendums — assessment retention to be subject to vote every ten years.
- 270.170. Swine or sheep taken up — notice to owner — considered feral hogs, when.
- 270.260. Release of swine to live in wild or feral state, penalty.
- 270.400. Killing of feral hogs permitted, when.
- 275.464. Additional charge — director of agriculture's duty.
- 311.554. Privilege of selling wine, additional revenue charges — purpose — limitation on use of revenue.
- 348.430. Agricultural product utilization contributor tax credit — definitions — requirements — limitations.
- 348.432. New generation cooperative incentive tax credit — definitions — requirements — limitations.
- 407.592. Law applicable to machinery sold after January 1, 1988, not to affect prior contracts — dealers reimbursed for labor, rate.
- 407.850. Definitions.
- 407.860. Inventory qualifying for repurchase — percentage to be paid — cost of transportation to warehouse to be paid by retailer — packing and loading, how paid — transferee of manufacturer or distributors, law to apply, when.
- 407.870. Inventory which does not qualify for repurchase.
- 414.032. Requirements, standards, certain fuels — director may inspect fuels, purpose.
- 414.043. MTBE content limit for gasoline, when.
- 701.381. Elevator safety and inspection requirements not applicable, when.
- 701.383. Grain elevators and feed mills, certain elevators exempt from safety and inspection requirements.
- 407.750. Industrial maintenance and construction power equipment, repurchase of on cancellation of contract, when, amount, payments made, when — exceptions.
- 407.751. Remedy under contract, retailer may pursue as alternative — not a bar to action under repurchase law, when.
- 407.752. Failure to make payment, civil action authorized.
- 407.890. Outdoor power equipment, repurchase of on cancellation of contract, when, amount — payments made, when — exceptions.
- 407.892. Remedy under contract, retailer may pursue as alternative to law.
- 407.893. Failure to make payment, civil action authorized.
- B. Severability clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 142.028, 254.020, 254.040, 261.110, 261.230, 261.235, 261.239, 263.531, 270.170, 275.464, 311.554, 348.430, 348.432, 407.592, 407.750, 407.751, 407.752, 407.850, 407.860, 407.870, 407.890, 407.892, 407.893 and 414.032, RSMo, are repealed and twenty-seven new sections enacted in lieu thereof, to be known as sections 142.028, 142.031, 254.020, 254.040, 254.225, 261.110, 261.120, 261.230, 261.235, 261.239, 261.240, 263.531, 270.170, 270.260, 270.400, 275.464, 311.554, 348.430, 348.432, 407.592, 407.850, 407.860, 407.870, 414.032, 414.043, 701.381 and 701.383, to read as follows:

142.028. DEFINITIONS — FUEL ETHANOL PRODUCER DEFINED — MISSOURI QUALIFIED PRODUCER INCENTIVE FUND CREATED, PURPOSE — ADMINISTRATION OF FUND — GRANTS TO PRODUCERS, AMOUNT, COMPUTATION, PAID WHEN — APPLICATION FOR GRANT, CONTENT, QUALIFICATIONS, BONDING — RULES AUTHORIZED. — 1. As used in this section, the following terms mean:

(1) "Fuel ethanol", one hundred ninety-eight proof ethanol denatured in conformity with the United States Bureau of Alcohol, Tobacco and Firearms' regulations and fermented and distilled in a facility whose principal (over fifty percent) feed stock is cereal grain or cereal grain by-products;

(2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten percent fuel ethanol in which the gasoline portion of the blend or the finished blend meets the American Society for Testing and Materials - specification number D-439;

(3) "Missouri qualified fuel ethanol producer", any producer of fuel ethanol whose principal place of business and facility for the fermentation and distillation of fuel ethanol is located within the state of Missouri **and is at least fifty-one percent owned by agricultural producers actively engaged in agricultural production for commercial purposes**, and which has made formal application, posted a bond, and conformed to the requirements of this section.

2. The "Missouri Qualified Fuel Ethanol Producer Incentive Fund" is hereby created and subject to appropriations shall be used to provide economic subsidies to Missouri qualified fuel ethanol producers pursuant to this section. The director of the department of agriculture shall administer the fund pursuant to this section.

3. A Missouri qualified fuel ethanol producer shall be eligible for a monthly grant from the fund, except that a Missouri qualified fuel ethanol producer shall only be eligible for the grant for a total of sixty months. The amount of the grant is determined by calculating the estimated gallons of qualified fuel ethanol production to be produced from Missouri agricultural products for the succeeding calendar month, as certified by the department of agriculture, and applying such figure to the per-gallon incentive credit established in this subsection. Each Missouri qualified fuel ethanol producer shall be eligible for a total grant in any [calendar] **fiscal** year equal to twenty cents per gallon for the first twelve and one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products in the [calendar] **fiscal** year plus five cents per gallon for the next twelve and one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products in the [calendar] **fiscal** year. All such qualified fuel ethanol produced by a Missouri qualified fuel ethanol producer in excess of twenty-five million gallons shall not be applied to the computation of a grant pursuant to this subsection. The department of agriculture shall pay all grants for a particular month by the fifteenth day after receipt and approval of the application described in subsection 4 of this section. If actual production of qualified fuel ethanol during a particular month either exceeds or is less than that estimated by a Missouri qualified fuel ethanol producer, the department of agriculture shall adjust the subsequent monthly grant by paying additional amount or subtracting the amount in deficiency by using the calculation described in this subsection.

4. In order for a Missouri qualified fuel ethanol producer to obtain a grant from the fund for a particular month, an application for such funds shall be received no later than fifteen days prior to the first day of the month for which the grant is sought. The application shall include:

- (1) The location of the Missouri qualified fuel ethanol producer;
- (2) The average number of citizens of Missouri employed by the Missouri qualified fuel ethanol producer in the preceding quarter, if applicable;
- (3) The number of bushels of Missouri agricultural commodities used by the Missouri qualified fuel ethanol producer in the production of fuel ethanol in the preceding quarter;
- (4) The number of gallons of qualified fuel ethanol the producer expects to manufacture during the month for which the grant is applied;
- (5) A copy of the qualified fuel ethanol producer license required pursuant to subsection 5 of this section, name and address of surety company, and amount of bond to be posted pursuant to subsection 5 of this section; and
- (6) Any other information deemed necessary by the department of agriculture to adequately ensure that such grants shall be made only to Missouri qualified fuel ethanol producers.

5. The director of the department of agriculture, in consultation with the department of revenue, shall promulgate rules and regulations necessary for the administration of the provisions of this section. The director shall also establish procedures for bonding Missouri qualified fuel ethanol producers. Each Missouri qualified fuel ethanol producer who attempts to obtain moneys pursuant to this section shall be bonded in an amount not to exceed the estimated maximum monthly grant to be issued to such Missouri qualified fuel ethanol producer.

6. [No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.**

142.031. MISSOURI QUALIFIED BIODIESEL PRODUCER FUND CREATED — ELIGIBILITY FOR GRANTS — RULEMAKING AUTHORITY. — 1. As used in this section the following terms shall mean:

- (1) "Biodiesel", fuel as defined in ASTM Standard D-6751 or its subsequent standard specifications for biodiesel fuel (B100) blend stock for distillate fuels;
- (2) "Qualified biodiesel producer", a facility that produces biodiesel, is registered with the United States Environmental Protection Agency according to the requirements of 40 CFR 79, and at least fifty-one percent is owned by agricultural producers actively engaged in agricultural production for commercial purposes.

2. The "Missouri Qualified Biodiesel Producer Incentive Fund" is hereby created and subject to appropriations with funds, other than general revenue funds, shall be used to provide economic subsidies to Missouri qualified biodiesel producers pursuant to this section. The director of the department of agriculture shall administer the fund pursuant to this section.

3. A Missouri qualified biodiesel producer shall be eligible for a monthly grant from the fund, except that a Missouri qualified biodiesel producer shall only be eligible for the grant for a total of sixty months. The amount of the grant is determined by calculating the estimated gallons of qualified biodiesel produced during the preceding month from Missouri agricultural products, as certified by the department of agriculture, and applying such figure to the per-gallon incentive credit established in this subsection. Each Missouri

qualified biodiesel producer shall be eligible for a total grant in any fiscal year equal to thirty cents per gallon for the first fifteen million gallons of qualified biodiesel produced from Missouri agricultural products in the fiscal year. All such qualified biodiesel produced by a Missouri qualified biodiesel producer in excess of fifteen gallons shall not be applied to the computation of a grant pursuant to this subsection. The department of agriculture shall pay all grants for a particular month by the fifteenth day after receipt and approval of the application described in subsection 4 of this section.

4. In order for a Missouri qualified biodiesel producer to obtain a grant from the fund, an application for such funds shall be received no later than fifteen days following the last day of the month for which the grant is sought. The application shall include:

- (1) The location of the Missouri qualified biodiesel producer;
- (2) The average number of citizens of Missouri employed by the Missouri qualified biodiesel producer in the preceding month, if applicable;
- (3) The number of bushel equivalents of Missouri agricultural commodities used by the Missouri qualified biodiesel producer in the production of biodiesel in the preceding month;
- (4) The number of gallons of qualified biodiesel the producer manufactures during the month for which the grant is applied;
- (5) A copy of the qualified biodiesel producer license required pursuant to subsection 5 of this section, name and address of surety company, and amount of bond to be posted pursuant to subsection 5 of this section; and
- (6) Any other information deemed necessary by the department of agriculture to adequately ensure that such grants shall be made only to Missouri qualified biodiesel producers.

5. The director of the department of agriculture, in consultation with the department of revenue, shall promulgate rules and regulations necessary for the administration of the provisions of this section.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

254.020. DEFINITIONS. — As used in this chapter, the following words [shall have the following meanings] mean:

(1) [The word "commission" shall mean] **"Best management practices", forest management practices, as defined by the commission in consultation with the clean water commission, that ensure protection of water quality;**

(2) **"Commission"**, the conservation commission of Missouri [upon which, by the terms hereof impressed, are] **being responsible for the control, management, restoration, conservation, and regulation of the bird, fish, game, forestry, and all wildlife resources of the state are therefore** vested the responsibilities for the administration [hereof in conformity] **of this chapter in conformance** with sections 40 to 46 of article IV of the Constitution of Missouri; and the words "rules and regulations" shall mean those made by the commission pursuant thereto;

[(2)] (3) **"Conservation commission fund"** [as used in this chapter, shall mean], only the moneys arising from the additional sales and use taxes provided for in section 43(a) of article IV of the Constitution of Missouri;

[(3)] **(4)** "Forest croplands" [shall mean], those lands devoted exclusively to growing wood and timber, except for such other uses as shall be approved by the commission by regulations and which are tendered to the commission by any person and accepted and classified by the commission as such; and the commission shall prescribe the terms and conditions of such tender, acceptance and classification;

[(4) The word "person" shall mean] **(5) "Person"**, any individual, male or female, singular or plural, of whatever age[, and this term]. **The term person** shall include and refer to any owner, grantee, lessee, licensee, permittee, firm, association, copartnership, corporation, municipality or county, as the context may require;

(6) "Precommercial forestry activities", proper forest management activities, as defined by the commission, that do not generate an immediate profit for the landowner;

[(5) The title "state forester" shall mean] **(7) "State forester"**, the administrative head of the state forestry program;

(8) "Sustainable forestry principles", forest management activities, as defined by the commission, that ensure efficient use and continued availability of forest resources.

254.040. DESIGNATION AS FOREST CROPLANDS, APPLICATION FOR — REFUSAL, APPEAL FROM — SIZE OF TRACT AND VALUE LIMITATIONS. — 1. Any person desiring to have lands designated as forest croplands shall submit an application [therefor] to the state forester on [form or] forms [to be] provided by the commission. The state forester [will] **shall** make or cause to be made an examination of the lands covered by [said] **such** application and shall forward a copy of [same] **such application**, together with his **or her** recommendations, to the commission. If the commission [approve and classify] **approves and classifies such** lands as forest croplands, they shall be subject to the provisions of this chapter and [such] rules and regulations **promulgated pursuant to this chapter.**

2. If the commission [refuse so] **refuses** to accept and classify [said] **such** lands, the applicant may appeal [from] the decision of the commission to the circuit court in which such lands, or major part [thereof] **of such lands**, are located and the decision of the circuit court in all such matters shall be final.

3. No application **to designate lands as forest croplands** shall be accepted for a tract of land containing less than twenty acres; and no such land shall be classified for tax relief if the value thereof shall exceed one hundred twenty-five dollars per acre or a greater value as set by regulation of the commission.

4. No application for the cost-share incentive program established in section 254.225 shall be accepted for lands designated as forest croplands.

254.225. FOREST LANDOWNER COST-SHARE INCENTIVE PROGRAM AUTHORIZED, REIMBURSEMENTS PROVIDED, WHEN — APPLICATION, PROCEDURE. — 1. The commission may administer a forest landowner cost-share incentive program to promote sustainable forestry on private lands. Such program may provide reimbursement cost share for up to fifty percent of the cost of precommercial forestry activities on eligible lands. Eligible forestry activities shall be carried out in accordance with best management practices and sustainable forestry principles.

2. Any forest landowner may submit a program application to the state forester on forms provided by the commission. Application procedures and acceptance criteria shall be specified by the commission.

3. No application for such program shall be accepted for a tract of land containing less than forty acres. The total amount of incentives provided to any person shall not exceed five thousand dollars in any calendar year.

261.110. DEPARTMENT OF AGRICULTURE TO DEVELOP STANDARDS AND LABELING FOR ORGANIC FARMING — RULEMAKING AUTHORITY. — 1. The department of agriculture shall develop standards and labeling for organic farming.

2. The department of agriculture shall adopt rules to implement the provisions of this section.

3. [No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.] **The department may cooperate with any agency of the federal government, any state, any other agency in this state, any private entity or person engaged in growing, processing, marketing of organic products, or any group of such persons in this state, in programs to effectuate such purposes. Such agreements may provide for cost and revenue sharing, and for division of duties and responsibilities under this section and may include other provisions generally to effectuate the purposes of this section.**

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

261.120. ORGANIC PRODUCTION AND CERTIFICATION FEE FUND CREATED. — There is hereby created in the state treasury the "Organic Production and Certification Fee Fund". Fees imposed in accordance with rules promulgated under section 261.110, shall be credited to the organic production and certification fee fund.

261.230. AGRI-MISSOURI MARKETING PROGRAM AND AGRICULTURAL PRODUCTS BY CATEGORY, RULES AUTHORIZED, DIRECTOR'S DUTY. — The director of the department of agriculture shall, for the use of the marketing division of the department of agriculture, develop and implement rules and regulations by product category for all Missouri agricultural products included in the Agri-Missouri marketing program [or any equivalent successor program. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void].

261.235. MISSOURI AGRICULTURAL PRODUCTS MARKETING DEVELOPMENT FUND, CREATED, PURPOSES, LAPSE OF FUND INTO GENERAL REVENUE PROHIBITED — ADVISORY COMMISSION FOR MARKETING MISSOURI AGRICULTURAL PRODUCTS, CREATED, PURPOSES, DUTIES, MEMBERSHIP — TRADEMARK FEES. — 1. There is hereby created in the state treasury for the use of the marketing division of the state department of agriculture a fund to be known as "The Missouri Agricultural Products Marketing Development Fund". [The general assembly shall appropriate to the fund from the general revenue fund one million three hundred thousand dollars for fiscal year 2002, one million dollars for fiscal year 2003 and seven hundred fifty thousand dollars for fiscal years 2004 to 2006.] All moneys received by the state department of agriculture for Missouri agricultural products marketing development from any source, including trademark fees, shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the state department of agriculture, be expended by the

marketing division of the state department of agriculture for [purposes] **promotion** of Missouri agricultural products [marketing development as specified in this section] **under the AgriMissouri program**. The unexpended balance in the Missouri agricultural products marketing development fund at the end of the biennium shall not be transferred to the [ordinary] **general** revenue fund of the state treasury and accordingly shall be exempt from the provisions of section 33.080, RSMo, relating to transfer of funds to the ordinary revenue funds of the state by the state treasurer.

2. There is hereby created within the department of agriculture the "Citizens' Advisory Commission for Marketing Missouri Agricultural Products". The commission shall establish guidelines, **and make recommendations to the director of agriculture, for the use of funds appropriated by the general assembly** for [the spending by] the marketing division of the department of agriculture[of all moneys in], **and for all funds collected or appropriated to** the Missouri agricultural products marketing development fund created pursuant to subsection 1 of this section. The guidelines shall focus on the promotion of the AgriMissouri [or successor] trademark associated with Missouri agricultural products [which has] **that have** been approved by the general assembly, and shall advance the following objectives:

- (1) Increasing the impact and fostering the effectiveness of local efforts to promote Missouri agricultural products;
- (2) Enabling and encouraging expanded advertising efforts for Missouri agricultural products;
- (3) Encouraging effective, high-quality advertising projects, innovative marketing strategies, and the coordination of local, regional and statewide marketing efforts;
- (4) Providing training and technical assistance to cooperative-marketing partners **of Missouri agricultural products**.

3. The commission [shall] **may** establish a fee structure for sellers electing to use the AgriMissouri [or successor] trademark associated with Missouri agricultural products. Under the fee structure: (1) a seller having gross annual sales greater than two million dollars per fiscal year of Missouri agricultural products which constitute the final product of a series of processes or activities shall remit to the marketing division of the department of agriculture, at such times and in such manner as may be prescribed, a trademark fee of one-half of one percent of the aggregate amount of all of such seller's wholesale sales of products carrying the AgriMissouri [or successor] trademark; and (2) all sellers having gross annual sales less than or equal to two million dollars per fiscal year of Missouri agricultural products which constitute the final product of a series of processes or activities shall, after three years of selling Missouri agricultural products carrying the AgriMissouri [or successor] trademark, remit to the marketing division of the department of agriculture, at such times and in such manner as may be prescribed, a trademark fee of one-half of one percent of the aggregate amount of all of such seller's wholesale sales of products carrying the AgriMissouri [or successor] trademark. All trademark fees shall be deposited to the credit of the Missouri agricultural products marketing development fund, created pursuant to this section. [The commission may also create two additional trademark labels to be associated with Missouri agricultural products which are certified organic products and certified family-farm-produced products.]

4. The marketing division of the department of agriculture is authorized to [promote] **promulgate** rules consistent with the guidelines and fee structure established by the commission. No rule or portion of a rule shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

5. The commission shall consist of nine members appointed by the governor with the advice and consent of the senate. One member shall be the director of the market development division of the department of agriculture, **or his or her representative**. At least one member shall be a specialist in advertising; at least one member shall be a specialist in agribusiness; at least one member shall be a specialist in the retail grocery business; at least one member shall be a specialist in communications; at least one member shall be a specialist in product

distribution; at least one member shall be a family farmer with expertise in livestock farming; at least one member shall be a family farmer with expertise in grain farming and at least one member shall be a family farmer with expertise in organic farming. Members shall serve for four-year terms, except in the first appointments three members shall be appointed for terms of four years, three members shall be appointed for terms of three years and three members shall be appointed for terms of two years each. Any member appointed to fill a vacancy of an unexpired term shall be appointed for the remainder of the term of the member causing the vacancy. The governor shall appoint a chairperson of the commission, subject to ratification by the commission.

6. Commission members shall receive no compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties on the commission. The division of market development of the department of agriculture shall provide all necessary staff and support services as required by the commission to hold commission meetings, to maintain records of official acts and to conduct all other business of the commission. The commission shall meet quarterly and at any such time that it deems necessary. Meetings may be called by the chairperson or by a petition signed by a majority of the members of the commission. Ten days' notice shall be given in writing to such members prior to the meeting date. A simple majority of the members of the commission shall be present to constitute a quorum. Proxy voting shall not be permitted.

261.239. DEPARTMENT OF AGRICULTURE TO CREATE WEB SITE TO FOSTER MARKETING OF MISSOURI AGRICULTURAL PRODUCTS. — The marketing division of the department of agriculture shall create an Internet web site for the purpose of fostering the marketing of Missouri agricultural products over the Internet. [The web site shall allow consumers to place orders for Missouri agricultural products over the Internet and shall enable small companies which process Missouri agricultural products to pool products with other such small companies.]

261.240. RULEMAKING AUTHORITY. — Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 261.230 to 261.239 shall become effective only if they comply with and are subject to all of the provisions of chapter 536, RSMo, and if applicable, section 536.028, RSMo. These sections and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

263.531. REFERENDUM DEFEATED — ORGANIZATION MAY CALL OTHER REFERENDUMS — ASSESSMENT RETENTION TO BE SUBJECT TO VOTE EVERY TEN YEARS. —

1. In the event any referendum conducted under sections 263.500 to 263.537 fails to receive the required number of affirmative votes, the certified organization may, with the consent of the department be authorized to call other referendums.

2. After the passage of any referendum, the eligible voters shall be allowed, by the subsequent referendums, at least every [five] **ten** years, to vote on whether to continue their assessments.

3. All the requirements for an initial referendum shall be met in subsequent referendums.

270.170. SWINE OR SHEEP TAKEN UP — NOTICE TO OWNER — CONSIDERED FERAL HOGS, WHEN. — **1.** If any swine or sheep shall be found running at large, contrary to the provisions of this chapter, it shall be lawful for any person on whose premises said swine or sheep shall be found to restrain the same forthwith, and give the owner, if known, notice in

writing that [he] **such person** has restrained said swine or sheep, and the amount of damages [he] **such person** claims in the premises, and requiring the owner to take said swine or sheep away and pay such damages; and such owner shall pay such person a reasonable sum for taking up, feeding and caring for the same, and the actual damages done by said swine or sheep. If such owner fails to comply with the provisions of this section within three days after receiving such notice, or if the owner of such swine or sheep be unknown, such swine or sheep shall be disposed of in the manner provided for in section 270.180.

2. Any swine not conspicuously identified by ear tags or other forms of identification that were born in the wild or that lived outside of captivity for a sufficient length of time to be considered wild by nature by hiding from humans or being nocturnal shall be considered feral hogs. Any person may take or kill such feral hogs on such person's own property.

270.260. RELEASE OF SWINE TO LIVE IN WILD OR FERAL STATE, PENALTY. — Any person who knowingly releases any swine to live in a wild or feral state upon any public land or private land not completely enclosed by a fence capable of containing such animals is guilty of a class A misdemeanor. Each swine so released shall be a separate offense.

270.400. KILLING OF FERAL HOGS PERMITTED, WHEN. — 1. For purposes of this section, the term "feral hog" means any hog, including Russian and European wild boar, that is not conspicuously identified by ear tags or other forms of identification and is roaming freely upon public or private lands without the landowner's permission.

2. A person may kill a feral hog roaming freely upon such person's land and shall not be liable to the owner of the hog for the loss of the hog.

3. Any person may take or kill a feral hog on public land or private land with the consent of the landowner; except that, during the firearms deer and turkey hunting season the regulations of the Missouri Wildlife Code shall apply. Such person shall not be liable to the owner of the hog for the loss of such hog.

4. No person except a landowner or such landowner's agent on such landowner's property shall take or kill a feral hog with the use of an artificial light.

275.464. ADDITIONAL CHARGE — DIRECTOR OF AGRICULTURE'S DUTY. — In addition to any other licenses and charges imposed by chapter 311, RSMo, there shall be collected by the director of the department of agriculture and paid to the director of the department of revenue for deposit in the Missouri wine marketing and research development fund an additional pro rata charge of [three] **six** dollars per ton of grapes or one hundred sixty gallons of grape juice processed by commercial producers in this state, **with three dollars per ton or one hundred sixty gallons being used for research and advisement of grapes and grape products.** The charges shall be paid and collected pursuant to sections 275.466 to 275.468.

311.554. PRIVILEGE OF SELLING WINE, ADDITIONAL REVENUE CHARGES — PURPOSE — LIMITATION ON USE OF REVENUE. — 1. In addition to the charges imposed by section 311.550, there shall be paid to and collected by the director of revenue for the privilege of selling wine, an additional charge of six cents per gallon or fraction thereof. The additional charge shall be paid and collected in the same manner and at the same time that the charges imposed by section 311.550 are paid and collected.

2. The revenue derived from the additional charge imposed by subsection 1 shall be deposited by the state treasurer to the credit of a separate account in the marketing development fund created by section 261.035, RSMo. Moneys to the credit of the account shall be appropriated annually for use by the division of the state department of agriculture concerned with market development in developing programs for growing, selling, and marketing of grapes and grape products grown in Missouri, including all necessary funding for the employment of

experts in the fields of viticulture and enology as deemed necessary, and programs aimed at improving marketing of all varieties of grapes grown in Missouri; and shall be appropriated and used for no other purpose.

3. In addition to the charges imposed by subsection 1 of this section and section 311.550, there shall be paid to and collected by the director of revenue for the privilege of selling wine an additional charge of six cents per gallon or fraction thereof. This additional six cents per gallon shall be deposited by the state treasurer to the credit of a separate account in the marketing development fund created by section 261.035, RSMo. Moneys to the credit account shall be appropriated annually for the use by the division of the Missouri department of agriculture concerned with the research and advisement of grapes and grape products in Missouri, including all necessary funding for the employment of experts in the fields of viticulture and enology.

348.430. AGRICULTURAL PRODUCT UTILIZATION CONTRIBUTOR TAX CREDIT — DEFINITIONS — REQUIREMENTS — LIMITATIONS. — 1. The tax credit created in this section shall be known as the "Agricultural Product Utilization Contributor Tax Credit".

2. As used in this section, the following terms mean:

(1) "Authority", the agriculture and small business development authority as provided in this chapter;

(2) "Contributor", an individual, partnership, corporation, trust, limited liability company, entity or person that contributes cash funds to the authority;

(3) "Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;

(4) "Eligible new generation cooperative", a nonprofit cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility;

(5) "Eligible new generation processing entity", a partnership, corporation, cooperative, or limited liability company organized or incorporated pursuant to the laws of this state consisting of not less than twelve members, approved by the authority, for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:

(a) Hold a majority of the governance or voting rights of the entity and any governing committee;

(b) Control the hiring and firing of management; and

(c) Deliver agricultural commodities or products to the entity for processing, unless processing is required by multiple entities;

[(5)] (6) "Renewable fuel production facility", a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source.

3. For tax year 1999, a contributor who contributes funds to the authority may receive a credit against the tax otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 148, RSMo, chapter 147, RSMo, in an amount of up to one hundred percent of such contribution. The awarding of such credit shall be at the approval of the authority, based on the least amount of credits necessary to provide incentive for the contributions. A contributor that receives tax credits for a contribution to the authority shall receive no other consideration or compensation for such contribution, other than a federal tax deduction, if applicable, and goodwill. A contributor that receives tax credits for a contribution provided in this section may not be a member, owner, investor or lender of an eligible new generation cooperative or eligible new generation processing entity that receives financial assistance from the authority either at the time the contribution is made or for a period of two years thereafter.

4. A contributor shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the contributor meets all criteria prescribed by this section and the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section shall initially be claimed [for] in the taxable year in which the contributor contributes funds to the authority. Any amount of credit that exceeds the tax due for a contributor's taxable year may be carried forward to any of the contributor's five subsequent taxable years. Tax credits issued pursuant to this section may be assigned, transferred or sold. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

5. The funds derived from contributions in this section shall be used for financial assistance or technical assistance for the purposes provided in section 348.407, to rural agricultural business concepts as approved by the authority. The authority may provide or facilitate loans, equity investments, or guaranteed loans for rural agricultural business concepts, but limited to two million dollars per project or the net state economic impact, whichever is less. Loans, equity investments or guaranteed loans may only be provided to feasible projects, and for an amount that is the least amount necessary to cause the project to occur, as determined by the authority. The authority may structure the loans, equity investments or guaranteed loans in a way that facilitates the project, but also provides for a compensatory return on investment or loan payment to the authority, based on the risk of the project.

6. In any given year, at least ten percent of the funds granted to rural agricultural business concepts shall be awarded to grant requests of twenty-five thousand dollars or less. No single rural agricultural business concept shall receive more than two hundred thousand dollars in grant awards from the authority. Agricultural businesses owned by minority members or women shall be given consideration in the allocation of funds.

348.432. NEW GENERATION COOPERATIVE INCENTIVE TAX CREDIT — DEFINITIONS — REQUIREMENTS — LIMITATIONS. — 1. The tax credit created in this section shall be known as the "New Generation Cooperative Incentive Tax Credit".

2. As used in this section, the following terms mean:

(1) "Authority", the agriculture and small business development authority as provided in this chapter;

(2) "Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;

(3) "Eligible new generation cooperative", a nonprofit cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility and approved by the authority;

(4) "Eligible new generation processing entity", a partnership, corporation, cooperative, or limited liability company organized or incorporated pursuant to the laws of this state consisting of not less than twelve members, approved by the authority, for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:

(a) Hold a majority of the governance or voting rights of the entity and any governing committee;

(b) Control the hiring and firing of management; and

(c) Deliver agricultural commodities or products to the entity for processing, unless processing is required by multiple entities;

[(4)] (5) "Employee-qualified capital project", an eligible new generation cooperative with capital costs greater than fifteen million dollars which will employ at least one hundred employees;

[(5)] (6) "Large capital project", an eligible new generation cooperative with capital costs greater than one million dollars;

[(6)] "Member", a person, partnership, corporation, trust or limited liability company that invests cash funds to an eligible new generation cooperative;]

(7) **"Producer member", a person, partnership, corporation, trust or limited liability company whose main purpose is agricultural production that invests cash funds to an eligible new generation cooperative or eligible new generation processing entity;**

[(7)] (8) "Renewable fuel production facility", a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source;

[(8)] (9) "Small capital project", an eligible new generation cooperative with capital costs of no more than one million dollars.

3. Beginning tax year 1999, and [subsequent tax years] **ending December 31, 2002**, any **producer** member who invests cash funds in an eligible new generation cooperative **or eligible new generation processing entity** may receive a credit against the tax otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, or chapter 148, RSMo, chapter 147, RSMo, in an amount equal to the lesser of fifty percent of such **producer** member's investment or fifteen thousand dollars.

4. For all tax years beginning on or after January 1, 2003, any producer member who invests cash funds in an eligible new generation cooperative may receive a credit against the tax otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in an amount equal to the lesser of fifty percent of such producer member's investment or fifteen thousand dollars.

[4.] 5. A **producer** member shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the **producer** member meets all criteria prescribed by this section and is approved by the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section shall initially be claimed [for] in the taxable year in which the **producer** member contributes capital to an eligible new generation cooperative **or eligible new generation processing entity**. Any amount of credit that exceeds the tax due for a **producer** member's taxable year may be carried back to any of the **producer** member's three prior taxable years and carried forward to any of the **producer** member's five subsequent taxable years. Tax credits issued pursuant to this section may be assigned, transferred, sold or otherwise conveyed and the new owner of the tax credit shall have the same rights in the credit as the **producer** member. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

[5.] 6. Ten percent of the tax credits authorized pursuant to this section initially shall be offered in any fiscal year to small capital projects. If any portion of the ten percent of tax credits offered to small capital costs projects is unused in any calendar year, then the unused portion of tax credits may be offered to employee-qualified capital projects and large capital projects. If the authority receives more applications for tax credits for small capital projects than tax credits are authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for small capital projects.

[6.] 7. Ninety percent of the tax credits authorized pursuant to this section initially shall be offered in any fiscal year to employee-qualified capital projects and large capital projects. If any portion of the ninety percent of tax credits offered to employee-qualified capital projects and large capital costs projects is unused in any fiscal year, then the unused portion of tax credits may be offered to small capital projects. The maximum tax credit allowed per employee-qualified capital project is three million dollars and the maximum tax credit allowed per large capital

project is one million five hundred thousand dollars. If the authority approves the maximum tax credit allowed for any employee-qualified capital project or any large capital project, then the authority, by rule, shall determine the method of distribution of such maximum tax credit. In addition, if the authority receives more tax credit applications for employee-qualified capital projects and large capital projects than the amount of tax credits authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for employee-qualified capital projects and large capital projects.

407.592. LAW APPLICABLE TO MACHINERY SOLD AFTER JANUARY 1, 1988, NOT TO AFFECT PRIOR CONTRACTS — DEALERS REIMBURSED FOR LABOR, RATE. — Sections 407.585 to 407.592 shall apply to any new farm machinery sold after January 1, 1988, but no provision of sections 407.585 to 407.592 shall operate or be construed to invalidate, impair, or otherwise infringe upon the specific requirements of any contract between a dealer and a manufacturer entered into prior to September 28, 1987, and which is in effect on September 28, 1987; provided, however, that in any case wherein warranty repair work is performed for a consumer by a farm equipment dealer under the provisions of a manufacturer's express warranty, the manufacturer shall reimburse the dealer at an hourly labor rate that is the same or greater than the hourly labor rate the dealer currently charges consumers for nonwarranty repair work. **The dealer may accept the manufacturer's reimbursement terms and conditions in lieu of the above.**

407.850. DEFINITIONS. — As used in sections 407.850 to 407.885, the following terms mean:

- (1) "Current model", a model listed in the wholesaler's, manufacturer's or distributor's current sales manual or any supplements thereto;
- (2) "Current net price", the price listed in the wholesaler's, manufacturer's or distributor's price list or catalogue in effect at the time the contract is canceled or discontinued, less any applicable trade and cash discounts;
- (3) "Inventory", [farm] **equipment**, implements, machinery, attachments and repair parts;
- (4) "Net cost", the price the retailer actually paid for the merchandise to the wholesaler, manufacturer or distributor, plus freight from the wholesaler's, manufacturer's or distributor's location to the dealer's location;
- (5) "Retailer", any person, firm or corporation engaged in the business of selling, repairing and retailing:
 - (a) Farm implements, machinery, attachments or repair parts;
 - (b) Industrial, maintenance and construction power equipment; or
 - (c) Outdoor power equipment used for lawn, garden, golf course, landscaping or grounds maintenance;

but shall not include retailers of petroleum and motor vehicles and related automotive care and replacement products normally sold by such retailers.

407.860. INVENTORY QUALIFYING FOR REPURCHASE — PERCENTAGE TO BE PAID — COST OF TRANSPORTATION TO WAREHOUSE TO BE PAID BY RETAILER — PACKING AND LOADING, HOW PAID — TRANSFEE OF MANUFACTURER OR DISTRIBUTORS, LAW TO APPLY, WHEN. — 1. The wholesaler, manufacturer or distributor shall repurchase that inventory previously purchased from him and held by the retailer at the date of termination of the contract. The provisions of sections 407.850 to 407.885 shall apply to the transferee of such wholesaler, manufacturer or distributor if such transferee acquired substantially all of the assets of such wholesaler, manufacturer or distributor. The wholesaler, manufacturer or distributor shall pay one hundred percent of the net cost of all new, unsold, undamaged and complete [farm] **equipment**, implements, machinery, and attachments and ninety-five percent of the current net

price of all new, unused and undamaged repair parts. The retailer shall pay the cost of transportation to the nearest warehouse maintained by the wholesaler, manufacturer, or distributor, or to a mutually agreeable site. The wholesaler, manufacturer or distributor shall pay the retailer five percent of the current net price on all new, unused and undamaged repair parts returned to cover the cost of handling, packing and loading. The wholesaler, manufacturer or distributor shall have the option of performing the handling, packing and loading in lieu of paying the five percent for these services. The retailer shall pay the cost of transportation to the nearest warehouse maintained by the wholesaler, manufacturer, or distributor, or to a mutually agreeable site.

2. Upon payment of the repurchase amount to the retailer, the title and right of possession to the repurchased inventory shall transfer to the wholesaler, manufacturer or distributor.

407.870. INVENTORY WHICH DOES NOT QUALIFY FOR REPURCHASE. — The provisions of sections 407.850 to 407.885 shall not require the repurchase from a retailer of:

(1) Any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning;

(2) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of title, free and clear of all claims, liens and encumbrances;

(3) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;

(4) Any **equipment**, implements, machinery, and attachments which are not in new, unused, undamaged, or complete condition;

(5) Any repair parts which are not in new, unused, or undamaged condition;

(6) Any **equipment**, implements, machinery or attachments which were purchased twenty-four months or more prior to notice of termination of the contract;

(7) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract;

(8) Any inventory which was acquired by the retailer from any source other than the wholesaler, manufacturer or distributor or transferee of such wholesaler, manufacturer or distributor **unless such inventory was acquired from any source authorized or arranged by the manufacturer.**

414.032. REQUIREMENTS, STANDARDS, CERTAIN FUELS — DIRECTOR MAY INSPECT FUELS, PURPOSE. — 1. All kerosene, diesel fuel, heating oil, aviation turbine fuel, gasoline, gasoline-alcohol blends and other motor fuels shall meet the requirements in the annual book of ASTM standards and supplements thereto. The director may promulgate rules and regulations on the labeling, standards for, and identity of motor fuels and heating oils.

2. [All sellers of motor fuel which has been blended with an alcohol additive shall notify the buyer of same.

3. All sellers of motor fuel which has been blended with at least one percent oxygenate by weight shall notify the buyer at the pump of the type of oxygenate. The provisions of this subsection may be satisfied with a sticker or label on the pump stating that the motor fuel may or may not contain the oxygenate. The department of agriculture shall provide the sticker or label, which shall be reasonable in size and content, at no cost to the sellers.

4.] The director may inspect gasoline, gasoline-alcohol blends or other motor fuels to insure that these fuels conform to advertised grade and octane. In no event shall the penalty for a first violation of this section exceed a written reprimand.

414.043. MTBE CONTENT LIMIT FOR GASOLINE, WHEN. — **After July 1, 2005, no gasoline sold, offered for sale, or stored within this state shall contain more than one-half of one percent by volume of methyl tertiary butyl ether (MTBE).**

701.381. ELEVATOR SAFETY AND INSPECTION REQUIREMENTS NOT APPLICABLE, WHEN. — The provisions of sections 701.350 to 701.380, RSMo, shall not apply to any device that is inaccessible to the public, not used to transport passengers and was built before January 1, 1940.

701.383. GRAIN ELEVATORS AND FEED MILLS, CERTAIN ELEVATORS EXEMPT FROM SAFETY AND INSPECTION REQUIREMENTS. — Single person elevator lifts and belt manlifts operating only in grain elevators or feed mills will be exempt from sections 701.350 to 701.380 unless inspection is requested by the owner.

[407.750. INDUSTRIAL MAINTENANCE AND CONSTRUCTION POWER EQUIPMENT, REPURCHASE OF ON CANCELLATION OF CONTRACT, WHEN, AMOUNT, PAYMENTS MADE, WHEN — EXCEPTIONS. — Whenever any person, firm, or corporation engaged in the business of selling and repairing industrial, maintenance and construction power equipment enters into a written or parol contract whereby such retailer agrees to maintain a stock of parts or machines or equipment or attachments with any wholesaler, manufacturer, or distributor of industrial, maintenance and construction power equipment used for industrial, maintenance or construction applications and either such wholesaler, manufacturer, or distributor desires to cancel or discontinue the contract, such wholesaler, manufacturer, or distributor shall pay to such retailer, unless the retailer should desire to keep such merchandise, a sum equal to ninety percent of the net cost of all new, unused, undamaged and complete industrial, maintenance and construction power equipment used for industrial, maintenance and construction applications including transportation charges which have been paid by such retailer, and ninety percent of the current net price on new, unused and undamaged repair parts at the price listed in the current price lists or catalogues, which parts had previously been purchased from such wholesaler, manufacturer, or distributor in the previous two years, and held by such retailer on the date of the cancellation of such contract. Any parts in a dealer's inventory for more than two years shall be returned for ninety percent of his original purchase cost. "Net cost" means the price the retailer actually paid for the equipment. "Current net price" means the price listed in the manufacturer's, wholesaler's or distributor's price list or catalogue in effect on the date of termination, less any applicable trade or cash discounts. Upon the payment of the sum equal to ninety percent of the net cost of such equipment and ninety percent of the current net price on the repair parts, the title to such machinery and repair parts shall pass to the manufacturer, wholesaler or distributor making such payment, and such manufacturer, wholesaler, or distributor shall be entitled to the possession of such equipment and repair parts. All payments required to be made under the provisions of this section must be made within ninety days after the return of the machinery or repair parts. After ninety days, all payments or allowances shall include interest at the rate stated in section 408.040, RSMo. The provisions of this section shall not require the repurchase from a retailer of:

- (1) Any repair part which has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets or batteries;
- (2) Any repair part which is in a broken or damaged package;
- (3) Any single repair part which is priced as a set of two or more items;
- (4) Any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning;
- (5) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of title, free and clear of all claims, liens and encumbrances;
- (6) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;
- (7) Any implements, machinery, and attachments which are not in new, unused, undamaged, or complete condition;
- (8) Any repair parts which are not in new, unused, or undamaged condition;

(9) Any implements, machinery or attachments which were purchased twenty-four months or more prior to notice of termination of the contract;

(10) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract;

(11) Any inventory which was acquired by the retailer from any source other than the wholesaler, manufacturer or distributor or transferee of such wholesaler, manufacturer or distributor;

(12) Any part that has been removed from an engine or short block or piece of equipment or any part that has been mounted or installed on an engine or on equipment.]

[407.751. REMEDY UNDER CONTRACT, RETAILER MAY PURSUE AS ALTERNATIVE — NOT A BAR TO ACTION UNDER REPURCHASE LAW, WHEN. — The provisions of section 407.750 shall be supplemental to any agreement between the retailer and the manufacturer, wholesaler or distributor covering the return of equipment and repair parts. The retailer may elect to pursue either his contract remedy or the remedy provided herein, and an election by the retailer to pursue his contract remedy shall not bar his right to the remedy provided herein as to those equipment and repair parts not affected by the contract remedy.]

[407.752. FAILURE TO MAKE PAYMENT, CIVIL ACTION AUTHORIZED. — In the event that any manufacturer, wholesaler, or distributor of machinery and repair parts for industrial, maintenance and construction power equipment used for industrial, maintenance and construction applications, upon cancellation of a contract by either a retailer or a manufacturer, wholesaler, or distributor, fails or refuses to make payment to such dealer as required by the provisions of section 407.750, such manufacturer, wholesaler, or distributor shall be liable in a civil action to the retailer for costs of litigation and attorney's fees and for one hundred percent of the net cost of such machinery, plus transportation charges which have been paid by the retailer and one hundred percent of the current net price of the repair parts.]

[407.890. OUTDOOR POWER EQUIPMENT, REPURCHASE OF ON CANCELLATION OF CONTRACT, WHEN, AMOUNT — PAYMENTS MADE, WHEN — EXCEPTIONS. — Whenever any person, firm, or corporation engaged in the business of selling and repairing outdoor power equipment used for lawn, garden, golf course, landscaping or grounds maintenance, enters into a written or parol contract whereby such retailer agrees to maintain a stock of parts or machines or equipment or attachments with any wholesaler, manufacturer, or distributor of outdoor power equipment used for lawn, garden, golf course, landscaping or grounds maintenance, and either such wholesaler, manufacturer, or distributor desires to cancel or discontinue the contract, such wholesaler, manufacturer, or distributor shall pay to such retailer, unless the retailer should desire to keep such merchandise, a sum equal to ninety percent of the net cost of all new, unused, undamaged and complete outdoor power equipment used for lawn, garden, golf course, landscaping or grounds maintenance, including transportation charges which have been paid by such retailer, and ninety percent of the current net price on new, unused and undamaged repair parts at the price listed in the current price lists or catalogues, which parts had previously been purchased from such wholesaler, manufacturer, or distributor in the previous two years, and held by such retailer on the date of the cancellation of such contract. Any parts in dealer's inventory for more than two years shall be returned for ninety percent of his original purchase cost. "Net cost" means the price the retailer actually paid for the equipment. "Current net price" means the price listed in the manufacturer's, wholesaler's or distributor's price list or catalogue in effect on the date of termination, less any applicable trade or cash discounts. Upon the payment of the sum equal to ninety percent of the net cost of such equipment and ninety percent of the current net price on the repair parts, the title to such machinery and repair parts shall pass to the manufacturer, wholesaler or distributor making such payment, and such manufacturer, wholesaler, or distributor shall be entitled to the possession of such equipment and repair parts.

All payments required to be made under the provisions of this section must be made within ninety days after the return of the machinery or repair parts. After ninety days, all payments or allowances shall include interest at the rate stated in section 408.040, RSMo. The provisions of this section shall not require the repurchase from a retailer of:

- (1) Any repair part which has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets or batteries;
- (2) Any repair part which is in a broken or damaged package;
- (3) Any single repair part which is priced as a set of two or more items;
- (4) Any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning;
- (5) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of title, free and clear of all claims, liens and encumbrances;
- (6) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;
- (7) Any implements, machinery, and attachments which are not in new, unused, undamaged, or complete condition;
- (8) Any repair parts which are not in new, unused, or undamaged condition;
- (9) Any implements, machinery or attachments which were purchased twenty-four months or more prior to notice of termination of the contract;
- (10) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract;
- (11) Any inventory which was acquired by the retailer from any source other than the wholesaler, manufacturer or distributor or transferee of such wholesaler, manufacturer or distributor;
- (12) Any part that has been removed from an engine or short block or piece of equipment or any part that has been mounted or installed on an engine or on equipment.]

[407.892. REMEDY UNDER CONTRACT, RETAILER MAY PURSUE AS ALTERNATIVE TO LAW.] — The provisions of section 407.890 shall be supplemental to any agreement between the retailer and the manufacturer, wholesaler or distributor covering the return of equipment and repair parts. The retailer may elect to pursue either his contract remedy or the remedy provided herein, and an election by the retailer to pursue his contract remedy shall not bar his right to remedy provided herein as to those equipment and repair parts not affected by the contract remedy.]

[407.893. FAILURE TO MAKE PAYMENT, CIVIL ACTION AUTHORIZED.] — In the event that any manufacturer, wholesaler, or distributor of machinery and repair parts for outdoor power equipment used for lawn, garden, golf course, landscaping or ground maintenance, upon cancellation of a contract by either a retailer or a manufacturer, wholesaler, or distributor, fails or refuses to make payment to such dealer as required by the provisions of section 407.890, such manufacturer, wholesaler, or distributor shall be liable in a civil action to the retailer for costs of litigation and attorneys' fees and for one hundred percent of the net cost of such machinery, plus transportation charges which have been paid by the retailer and one hundred percent of the current net price of the repair parts.]

SECTION B. SEVERABILITY CLAUSE. — If any provision of this act or the application thereof to anyone or to any circumstances is held invalid, the remainder of those sections and the application of such provisions to others or other circumstances shall not be affected thereby.

Approved June 24, 2002

HB 1375 [HB 1375]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Increases permissible mortgage insurance amounts.

AN ACT to repeal section 443.415, RSMo, and to enact in lieu thereof one new section relating to mortgage insurance amounts.

SECTION

A. Enacting clause.

443.415. Mortgage may be insured for certain buyers, amount, requirements.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 443.415, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 443.415, to read as follows:

443.415. MORTGAGE MAY BE INSURED FOR CERTAIN BUYERS, AMOUNT, REQUIREMENTS. — Mortgage insurers may insure a mortgage in an amount not exceeding one hundred **three** percent of the fair market value of the authorized real estate security at the time that the loan is made if secured by a first lien or charge on such real estate security.

Approved July 3, 2002

HB 1381 [SCS HB 1381]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows insurance policies to be in languages other than English.

AN ACT to amend chapter 375, RSMo, by adding thereto one new section relating to interpretation of insurance materials.

SECTION

A. Enacting clause.

375.919. Use of language other than English permitted, when, disclosures — contractual relationship required for applicability of certain rules — misrepresentation, penalty.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 375, RSMo, is amended by adding thereto one new section, to be known as section 375.919, to read as follows:

375.919. USE OF LANGUAGE OTHER THAN ENGLISH PERMITTED, WHEN, DISCLOSURES — CONTRACTUAL RELATIONSHIP REQUIRED FOR APPLICABILITY OF CERTAIN RULES — MISREPRESENTATION, PENALTY. — **1. An insurer, as defined in section 375.001, may provide an insurance policy, endorsement, rider and any explanatory material in a**

language other than English. In the event of a dispute regarding the insurance or advertising material, the English language version shall dictate the resolution. If a policy, endorsement or rider is provided in a language other than English, the insurer shall also, at the same time, provide to the policyholder a copy of such policy, endorsement or rider in English, and shall disclose on such document, in both English and the other language, the following:

(1) The translation is for informational purposes only; and
(2) The English language version of the policy will be controlling unless the language in the other language version is shown to be a fraudulent misrepresentation.

2. Any knowing misrepresentation in providing a policy, endorsement, rider or explanatory materials in a language other than English is a violation of sections 375.930 to 375.948.

Approved July 3, 2002

HB 1386 [HCS HB 1386 & 1038]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises tinted window restrictions.

AN ACT to repeal section 307.173, RSMo, and to enact in lieu thereof one new section relating to tinted windows, with a penalty provision and an emergency clause.

SECTION

A. Enacting clause.

307.173. Specifications for sun screening device applied to windshield or windows — permit required, when — exceptions — rules, procedure — violations, penalty — exemptions.

B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 307.173, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 307.173, to read as follows:

307.173. SPECIFICATIONS FOR SUN SCREENING DEVICE APPLIED TO WINDSHIELD OR WINDOWS — PERMIT REQUIRED, WHEN — EXCEPTIONS — RULES, PROCEDURE — VIOLATIONS, PENALTY — EXEMPTIONS. — 1. [Except as provided in subsections 2 and 6 of this section, no person shall operate any motor vehicle registered in this state on any public highway or street of this state with any manufactured vision-reducing material applied to any portion of the motor vehicle's windshield, sidewings, or windows located immediately to the left and right of the driver which reduces visibility from within or without the motor vehicle. This section shall not prohibit labels, stickers, decalcomania, or informational signs on motor vehicles or the application of tinted or solar screening material to recreational vehicles as defined in section 700.010, RSMo, provided that such material does not interfere with the driver's normal view of the road. This section shall not prohibit factory installed tinted glass, the equivalent replacement thereof or tinting material applied to the upper portion of the motor vehicle's windshield which is normally tinted by the manufacturer of motor vehicle safety glass.

2.] Any person may operate a motor vehicle with [side and rear windows] **front sidewing vents or windows located immediately to the left and right of the driver** that have a sun screening device, in conjunction with safety glazing material, that has a light transmission of thirty-five percent or more plus or minus three percent and a luminous reflectance of thirty-five percent or less plus or minus three percent. **Except as provided in subsection 5 of this section, any sun screening device applied to front sidewing vents or windows located immediately to the left and right of the driver in excess of the requirements of this section shall be prohibited without a permit pursuant to a physician's prescription as described below. A permit to operate a motor vehicle with front sidewing vents or windows located immediately to the left and right of the driver that have a sun screening device, in conjunction with safety glazing material, which permits less light transmission and luminous reflectance than allowed under the requirements of this subsection, may be issued by the department of public safety to a person having a serious medical condition which requires the use of a sun screening device if the permittee's physician prescribes its use. The director of the department of public safety shall promulgate rules and regulations for the issuance of the permit. The permit shall allow operation of the vehicle by any titleholder or relative within the second degree by consanguinity or affinity, which shall mean a spouse, each grandparent, parent, brother, sister, niece, nephew, aunt, uncle, child, and grandchild of a person, who resides in the household. Except as provided in subsection 2 of this section, all sun screening devices applied to the windshield of a motor vehicle are prohibited.**

2. This section shall not prohibit labels, stickers, decalcomania, or informational signs on motor vehicles or the application of tinted or solar screening material to recreational vehicles as defined in section 700.010, RSMo, provided that such material does not interfere with the driver's normal view of the road. This section shall not prohibit factory installed tinted glass, the equivalent replacement thereof or tinting material applied to the upper portion of the motor vehicle's windshield which is normally tinted by the manufacturer of motor vehicle safety glass.

3. [A motor vehicle in violation of this section shall not be approved during any motor vehicle safety inspection required pursuant to sections 307.350 to 307.390.

4.] Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

[5.] 4. Any person who violates the provisions of this section is guilty of a class C misdemeanor.

[6.] 5. Any vehicle licensed with a historical license plate shall be exempt from the requirements of this section.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to clarify the laws regarding tinted windows, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved February 14, 2002

HB 1398 [HCS HB 1398]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows relatives of deceased veterans of World War II to apply for World War II medals and extends the application date to 2003.

AN ACT to repeal sections 42.170 and 42.175, RSMo, and to enact in lieu thereof two new sections relating to World War II medals, with an emergency clause.

SECTION

- A. Enacting clause.
- 42.170. World War II medallion, medal and certificate, to whom awarded.
- 42.175. Adjutant general to administer awards — disposition of deceased applicant's awards.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 42.170 and 42.175, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 42.170 and 42.175, to read as follows:

42.170. WORLD WAR II MEDALLION, MEDAL AND CERTIFICATE, TO WHOM AWARDED.

— 1. Every veteran who honorably served on active duty in the United States military service at any time beginning December 7, 1941, and ending [September 30, 1945] **December 31, 1946**, shall be entitled to receive a medallion, medal and a certificate of appreciation pursuant to sections 42.170 to 42.185, provided that:

- (1) Such veteran is a legal resident of this state on August 28, 2000, **or was a legal resident of this state at the time of his or her death**; and
- (2) Such veteran was honorably separated or discharged from military service or is still in active service in an honorable status, **or was in active service in an honorable status at the time of his or her death**.

2. The medallion, medal and the certificate shall be awarded regardless of whether or not such veteran served within the United States or in a foreign country. The medallion, medal and the certificate shall be awarded regardless of whether or not such veteran was under eighteen years of age at the time of enlistment. For purposes of sections 42.170 to 42.185, "veteran" means any person defined as a veteran by the United States Department of Veterans' Affairs or its successor agency.

42.175. ADJUTANT GENERAL TO ADMINISTER AWARDS — DISPOSITION OF DECEASED APPLICANT'S AWARDS. — 1. Except as otherwise provided in sections 42.170 to 42.185, the adjutant general of the state of Missouri shall administer sections 42.170 to 42.185, and may adopt all rules and regulations necessary to administer the provisions of sections 42.170 to 42.185. No rule or portion of a rule promulgated pursuant to sections 42.170 to 42.185 shall become effective unless promulgated pursuant to chapter 536, RSMo.

2. The adjutant general shall determine as expeditiously as possible the persons who are entitled to a medallion, medal and a certificate pursuant to sections 42.170 to 42.185 and distribute the medallions, medals and the certificates as provided in sections 42.170 to 42.185. Applications for the medallion, medal and the certificate shall be filed with the office of the adjutant general at any time after January 1, 2001, and before [January 1, 2002] **July 1, 2003**, on forms prescribed and furnished by the adjutant general's office. The adjutant general shall

approve all applications that are in order, and shall cause a medallion, medal and a certificate to be prepared for each approved veteran in the form created by the veterans' commission pursuant to section 42.180.

3. The following persons may apply for a medallion, medal and certificate pursuant to sections 42.170 to 42.185:

(1) Any veteran who is entitled to a medallion, medal and certificate pursuant to sections 42.170 to 42.185;

(2) Any spouse of a veteran who is entitled to a medallion, medal and certificate pursuant to sections 42.170 to 42.185 but who died prior to having made application for such medallion, medal and certificate.

4. If any spouse applies for the medallion, medal and certificate pursuant to subsection 3 of this section or if any [person] veteran dies after applying for a medallion or medal and a certificate pursuant to sections 42.170 to 42.185 and such [person] veteran would have been entitled to the medallion, medal and the certificate, the adjutant general shall give the medallion, medal and the certificate to the [person to whom the largest portion of the veteran's estate was given in such veteran's will. If the estate was split evenly among two or more persons, the surviving spouse, the eldest living child or the closest relative by degree of consanguinity, in that order, shall receive the medallion, medal and the certificate. If there was no will, the veteran's intestate survivor shall receive the medallion, medal and the certificate] spouse of the deceased veteran.

[4.] 5. If the adjutant general disallows any veteran's claim to a medallion, medal and a certificate pursuant to sections 42.170 to 42.185, a statement of the reason for the disallowance shall be filed with the application and notice of this disallowance shall be mailed to the applicant at the applicant's last known address.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure the award of medals, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved July 3, 2002

HB 1399 [HS HB 1399]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Extends application deadline for World War II medals to January 1, 2003.

AN ACT to repeal section 42.175, RSMo, and to enact in lieu thereof one new section relating to World War II medals, with an emergency clause.

SECTION

- A. Enacting clause.
- 42.175. Adjutant general to administer awards — disposition of deceased applicant's awards.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 42.175, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 42.175, to read as follows:

42.175. ADJUTANT GENERAL TO ADMINISTER AWARDS — DISPOSITION OF DECEASED APPLICANT'S AWARDS. — 1. Except as otherwise provided in sections 42.170 to 42.185, the adjutant general of the state of Missouri shall administer sections 42.170 to 42.185, and may adopt all rules and regulations necessary to administer the provisions of sections 42.170 to 42.185. No rule or portion of a rule promulgated pursuant to sections 42.170 to 42.185 shall become effective unless promulgated pursuant to chapter 536, RSMo.

2. The adjutant general shall determine as expeditiously as possible the persons who are entitled to a medallion, medal and a certificate pursuant to sections 42.170 to 42.185 and distribute the medallions, medals and the certificates as provided in sections 42.170 to 42.185. Applications for the medallion, medal and the certificate shall be filed with the office of the adjutant general at any time after January 1, 2001, and before [January 1, 2002] **July 1, 2003**, on forms prescribed and furnished by the adjutant general's office. The adjutant general shall approve all applications that are in order, and shall cause a medallion, medal and a certificate to be prepared for each approved veteran in the form created by the veterans' commission pursuant to section 42.180.

3. If any person dies after applying for a medallion or medal and a certificate pursuant to sections 42.170 to 42.185 and such person would have been entitled to the medallion, medal and the certificate, the adjutant general shall give the medallion, medal and the certificate to the person to whom the largest portion of the veteran's estate was given in such veteran's will. If the estate was split evenly among two or more persons, the surviving spouse, the eldest living child or the closest relative by degree of consanguinity, in that order, shall receive the medallion, medal and the certificate. If there was no will, the veteran's intestate survivor shall receive the medallion, medal and the certificate.

4. If the adjutant general disallows any veteran's claim to a medallion, medal and a certificate pursuant to sections 42.170 to 42.185, a statement of the reason for the disallowance shall be filed with the application and notice of this disallowance shall be mailed to the applicant at the applicant's last known address.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure the award of medals, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved July 3, 2002

HB 1402 [CCS SCS HB 1402]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Permits municipal utilities to offer wholesale telecommunications services.

AN ACT to repeal sections 386.025, 392.410, 393.295, 393.700, 393.705, 393.715, 393.725, 393.740 and 393.765, RSMo, and to enact in lieu thereof twelve new sections relating to utility projects, with an emergency clause for a certain section.

SECTION

A. Enacting clause.

71.970. Cable television facilities, municipalities may own and operate, requirements — public service commission to study economic impact — expiration date.

- 182.825. Definitions.
- 182.827. Responsibilities of public schools and public libraries with public access computers — rulemaking authority — immunity from liability, when.
- 386.887. Consumer clean energy act — definitions — purchase and sale of electric energy to customer-generators, rules adopted, contracts — net energy measurement calculated by supplier — net metering not required, when.
- 392.410. Certificate of public convenience and necessity required, exception — certificate of interexchange service authority, required when — duration of certificates — temporary certificates, issued when — political subdivisions restricted from providing certain telecommunications services or facilities, expiration date.
- 393.310. Certain gas corporations to file set of experimental tariffs with PSC, minimum requirements — expiration date.
- 393.700. Short title.
- 393.705. Definitions.
- 393.715. Powers of commission — purchase of private water utility serving outside municipal limits, effect — successorship, continued and new service authorized, when.
- 393.725. Bonds issued to be revenue bonds only — form of bonds.
- 393.740. Certain taxes applicable.
 - 1. Emissions limitation for certain coal-fired cyclone boilers — expiration date.
- 386.025. Certain joint municipal utility commissions to be considered utility corporations.
- 393.295. Provisions of chapters 386 and 393, RSMo, applicable to certain joint municipal utility commissions.
- 393.765. Public service commission law applicable.
 - B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 386.025, 392.410, 393.295, 393.700, 393.705, 393.715, 393.725, 393.740 and 393.765, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 71.970, 182.825, 182.827, 393.310, 393.700, 393.705, 393.715, 393.725, 393.740, 386.887, 392.410 and 1, to read as follows:

71.970. CABLE TELEVISION FACILITIES, MUNICIPALITIES MAY OWN AND OPERATE, REQUIREMENTS — PUBLIC SERVICE COMMISSION TO STUDY ECONOMIC IMPACT — EXPIRATION DATE. — **1. Municipalities may own and operate cable television facilities on a nondiscriminatory, competitively-neutral basis, and at a price which covers costs, including imputed costs that the political subdivision would incur if it were a for-profit business. No municipality may own or operate cable television facilities and services unless approved by a vote of the people. This section shall apply only to municipalities that acquire or construct cable television facilities and services after August 28, 2002.**

2. The public service commission shall annually study the economic impact of the provisions of this section and prepare and submit a report to the general assembly by December thirty-first of each year.

3. The provisions of this section shall terminate on August 28, 2007.

182.825. DEFINITIONS. — As used in sections 182.825 and 182.827, the following terms mean:

- (1) "Pornographic for minors", as that term is defined in section 573.010, RSMo;
- (2) "Public access computer", a computer that is:
 - (a) Located in an elementary or secondary public school or public library;
 - (b) Frequently or regularly used directly by a minor; and
 - (c) Connected to any computer communication system.

182.827. RESPONSIBILITIES OF PUBLIC SCHOOLS AND PUBLIC LIBRARIES WITH PUBLIC ACCESS COMPUTERS — RULEMAKING AUTHORITY — IMMUNITY FROM LIABILITY, WHEN. — **1. A public school that provides a public access computer shall do one or both of the following:**

(1) Equip the computer with software that will limit minors' ability to gain access to material that is pornographic for minors or purchase Internet connectivity from an

Internet service provider that provides filter services to limit access to material that is pornographic for minors;

(2) Develop and implement by January 1, 2003, a policy that is consistent with community standards and establishes measures to restrict minors from gaining computer access to material that is pornographic for minors.

2. The department of elementary and secondary education shall establish rules and regulations for the enforcement of subsection 1 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

3. A public library that provides a public access computer shall do one or both of the following:

(1) Equip the computer with software that will limit minors' ability to gain access to material that is pornographic for minors or purchase Internet connectivity from an Internet service provider that provides filter services to limit access to material that is pornographic for minors;

(2) Develop and implement by January 1, 2003, a policy that is consistent with community standards and establishes measures to restrict minors from gaining computer access to material that is pornographic for minors.

4. The secretary of state shall establish rules and regulations for the enforcement of subsection 3 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

5. Any public school board member, officer or employee, including library personnel, who willfully neglects or refuses to perform a duty imposed by this section shall be subject to the penalties imposed pursuant to section 162.091, RSMo.

6. A public school or public school board member, officer or employee, including library personnel; public library or public library board member, officer, employee or trustee that complies with subsection 1 or 3 of this section or an Internet service provider providing Internet connectivity to such public school or library in order to comply with this section shall not be criminally liable or liable for any damages that might arise from a minor gaining access to material that is pornographic for minors through the use of a public access computer that is owned or controlled by the public school or public library.

386.887. CONSUMER CLEAN ENERGY ACT — DEFINITIONS — PURCHASE AND SALE OF ELECTRIC ENERGY TO CUSTOMER-GENERATORS, RULES ADOPTED, CONTRACTS — NET ENERGY MEASUREMENT CALCULATED BY SUPPLIER — NET METERING NOT REQUIRED, WHEN. — 1. This section shall be known and may be cited as the "Consumer Clean Energy Act".

2. As used in this section, the following terms mean:

(1) "Commission", the public service commission of the state of Missouri;

(2) "Customer-generator", a consumer of electric energy who purchases electric energy from a retail electric energy supplier and is the owner of a qualified net metering unit;

(3) "Local distribution system", facilities for the distribution of electric energy to the ultimate consumer thereof;

(4) "Net energy metering", a measurement of the difference between the electric energy supplied to a customer-generator by a retail electric supplier and the electric energy generated by a customer-generator that is delivered to a local distribution system at the same point of interconnection;

(5) "Qualified net metering unit", an electric generation unit which:

(a) Is owned by a customer-generator;

(b) Is a hydrogen fuel cell or is powered by sun, wind or biomass;

(c) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(d) Is located on the premises that are owned, operated, leased or otherwise controlled by the customer-generator;

(e) Is interconnected and operates in parallel and in synchronization with a retail electric supplier; and

(f) Is intended primarily to offset part or all of the customer-generator's own electrical requirements;

(6) "Retail electric supplier" or "supplier", any person that sells electric energy to the ultimate consumer thereof;

(7) "Value of electric energy", the total resulting from the application of the appropriate rates, which may be time of use rates at the option of the supplier, to the quantity of electric energy produced from qualified net metering units or to the quantity of electric energy sold to customer-generators.

3. By August 28, 2003, each retail electric supplier shall adopt rates, charges, conditions and contract terms for the purchase from and the sale of electric energy to customer-generators. The commission, in consultation with the department and retail electric suppliers, shall develop a simple contract for such transactions and make it available to eligible customer-generators and retail electric suppliers. Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the purchase from the customer-generator may be by the wholesale generator. Any time of use or other rates charged for electric energy sold to customer-generators shall be the same as those made available to any other customers with the same net electric energy usage pattern including minimum bills and service availability charges. Rates for electric energy generated by the customer-generator from a qualified net generating unit and sold to the retail electric supplier or its wholesale generator shall be the avoided cost (time of use or non-time of use) of the generation used by the retail electric supplier to serve its other customers. Whenever a customer-generator with a qualified net generating unit uses any energy generation method entitled to eligibility under a minimum renewable energy generation requirement, the total amount of energy generated by that method shall be treated as generated by the generator providing electric energy to the retail electric supplier for purposes of such requirement. The wholesale generator, at the option of the retail electric supplier, shall receive credit for emissions avoided by the wholesale generator because of electric energy purchased by the wholesale generator or the retail electric supplier from a qualified net metering unit. If the supplier is required to file tariffs with the commission, the commission shall review the reasonableness of the charges provided in such tariffs.

4. Each retail electric supplier shall calculate the net energy measurement for a customer-generator in the following manner:

(1) The retail electric supplier shall individually measure both the electric energy produced and the electric energy consumed by the customer-generator during each billing period using an electric metering capable of such function, either by a single meter capable of registering the flow of electricity in two directions or by using multiple meters;

(2) If the value of the electric energy supplied by the retail electric supplier exceeds the value of the electric energy delivered by the customer-generator to the retail electric supplier during a billing period, then the customer-generator shall be billed for the net value of the electric energy supplied by the retail electric supplier in accordance with the rates, terms and conditions established by the retail electric supplier for customer-generators; and

(3) If the value of the electric energy generated by the customer-generator exceeds the value of the electric energy supplied by the retail electric supplier, then the customer-generator:

(a) Shall be billed for the appropriate customer charges for that billing period; and

(b) Shall be credited for the excess value of the electric energy generated and supplied to the retail electric supplier during the billing period, with this credit appearing on the bill for the following billing period.

5. A retail electric supplier shall not be required to provide net metering service with respect to additional customer-generators after the date during any calendar year on which the total generating capacity of all customer-generators with qualified net metering units served by that retail electric supplier is equal to or in excess of the lesser of ten thousand kilowatts or one-tenth of one percent of the capacity necessary to meet the company's aggregate customer peak demand for the preceding calendar year.

6. Each retail electric supplier shall maintain and make available to the public records of the total generating capacity of customer-generators of the supplier that are using net metering, the type of generating systems and energy source used by the electric generating systems which customer-generators use. Each such retail electric supplier shall notify the commission when the total generating capacity of such customer-generators is equal to or in excess of the lesser of ten thousand kilowatts or one-tenth of one percent of the capacity necessary to meet the company's aggregate customer peak demand for the preceding calendar year.

7. Each qualified net metering unit used by a customer-generator shall meet all applicable safety, performance, synchronization, interconnection and reliability standards established by the commission, the National Electrical Safety Code, National Electrical Code, the Institute of Electrical, Electronics Engineers, and Underwriters Laboratories. Each qualified net metering unit used by a customer-generator shall also meet all reasonable standards and requirements established by the retail electric supplier to enhance employee, consumer and public safety and the reliability of electric service to the customer-generator and other consumers receiving electric service from the retail electric supplier. Each qualified net metering unit used by a customer-generator shall also comply with all applicable local building, electrical and safety codes. The customer-generator shall obtain liability insurance coverage in amounts and coverage as set by the commission by rule applicable to all qualified net metering units.

8. The cost of meeting the standards of subsection 7 of this section and any cost to install additional controls, to install additional metering, to perform or pay for additional tests or analysis of the effect of the operation of the qualified net metering unit on the local distribution system shall be paid by the customer-generator.

9. Applications by a customer-generator for interconnection to the distribution system shall include a copy of the plans and specifications for the qualified net metering unit for review and acceptance by the retail electric supplier. Prior to connection of the qualified net metering unit to the distribution system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or

engineer that the installation meets the requirements of subsection 7 of this section. Such applications shall be reviewed and responded to by the retail electric supplier within ninety days. If the application for interconnection is approved by the retail electric supplier, the retail electric supplier shall complete the interconnection within fifteen days if electric service already exists to the premises, unless a later date is mutually agreeable to both the customer-generator and the retail electric supplier.

10. The sale of qualified net metering units shall be subject to the provisions of sections 407.700 to 407.720, RSMo. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536, RSMo, rules regarding mandatory disclosures of information by sellers of qualified net metering units. Such rules shall as a minimum require disclosure of the standards of subsection 7 of this section and potential liability of the owner or operator of a qualified net metering unit to third persons for personal injury or property damage as a result of negligent operation of a qualified net metering unit. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are non-severable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

392.410. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED, EXCEPTION — CERTIFICATE OF INTEREXCHANGE SERVICE AUTHORITY, REQUIRED WHEN — DURATION OF CERTIFICATES — TEMPORARY CERTIFICATES, ISSUED WHEN — POLITICAL SUBDIVISIONS RESTRICTED FROM PROVIDING CERTAIN TELECOMMUNICATIONS SERVICES OR FACILITIES, EXPIRATION DATE. — 1. A telecommunications company not possessing a certificate of public convenience and necessity from the commission at the time this section goes into effect shall have not more than ninety days in which to apply for a certificate of service authority from the commission pursuant to this chapter unless a company holds a state charter issued in or prior to the year 1913 which charter authorizes a company to engage in the telephone business. No telecommunications company not exempt from this subsection shall transact any business in this state until it shall have obtained a certificate of service authority from the commission pursuant to the provisions of this chapter, except that any telecommunications company which is providing telecommunications service on September 28, 1987, and which has not been granted or denied a certificate of public convenience and necessity prior to September 28, 1987, may continue to provide that service exempt from all other requirements of this chapter until a certificate of service authority is granted or denied by the commission so long as the telecommunications company applies for a certificate of service authority within ninety days from September 28, 1987.

2. No telecommunications company offering or providing, or seeking to offer or provide, any interexchange telecommunications service shall do so until it has applied for and received a certificate of interexchange service authority pursuant to the provisions of subsection 1 of this section. No telecommunications company offering or providing, or seeking to offer or provide, any local exchange telecommunications service shall do so until it has applied for and received a certificate of local exchange service authority pursuant to the provisions of section 392.420.

3. No certificate of service authority issued by the commission shall be construed as granting a monopoly or exclusive privilege, immunity or franchise. The issuance of a certificate of service authority to any telecommunications company shall not preclude the commission from issuing additional certificates of service authority to another telecommunications company providing the same or equivalent service or serving the same geographical area or customers as any previously certified company, except to the extent otherwise provided by section 392.450.

4. Any certificate of public convenience and necessity granted by the commission to a telecommunications company prior to September 28, 1987, shall remain in full force and effect unless modified by the commission, and such companies need not apply for a certificate of service authority in order to continue offering or providing service to the extent authorized in such certificate of public convenience and necessity. Any such carrier, however, prior to substantially altering the nature or scope of services provided under a certificate of public convenience and necessity, or adding or expanding services beyond the authority contained in such certificate, shall apply for a certificate of service authority for such alterations or additions pursuant to the provisions of this section.

5. The commission may review and modify the terms of any certificate of public convenience and necessity issued to a telecommunications company prior to September 28, 1987, in order to ensure its conformity with the requirements and policies of this chapter. Any certificate of service authority may be altered or modified by the commission after notice and hearing, upon its own motion or upon application of the person or company affected. Unless exercised within a period of one year from the issuance thereof, authority conferred by a certificate of service authority or a certificate of public convenience and necessity shall be null and void.

6. The commission may issue a temporary certificate which shall remain in force not to exceed one year to assure maintenance of adequate service or to serve particular customers, without notice and hearing, pending the determination of an application for a certificate.

7. No political subdivision of this state shall provide or offer for sale, either to the public or to a telecommunications provider, a telecommunications service or telecommunications facility used to provide a telecommunications service for which a certificate of service authority is required pursuant to this section. Nothing in this subsection shall be construed to restrict a political subdivision from allowing the nondiscriminatory use of its rights-of-way including its poles, conduits, ducts and similar support structures by telecommunications providers or from providing to telecommunications providers, within the geographic area in which it lawfully operates as a municipal utility, telecommunications services or telecommunications facilities on a nondiscriminatory, competitively-neutral basis, and at a price which covers cost, including imputed costs that the political subdivision would incur if it were a for-profit business. Nothing in this subsection shall restrict a political subdivision from providing telecommunications services or facilities:

- (1) For its own use;
- (2) For 911, E-911 or other emergency services;
- (3) For medical or educational purposes;
- (4) To students by an educational institution; or
- (5) Internet-type services.

The provisions of this subsection shall expire on August 28, [2002] 2007.

8. The public service commission shall annually study the economic impact of the provisions of this section and prepare and submit a report to the general assembly by December thirty-first of each year.

393.310. CERTAIN GAS CORPORATIONS TO FILE SET OF EXPERIMENTAL TARIFFS WITH PSC, MINIMUM REQUIREMENTS — EXPIRATION DATE. — 1. This section shall only apply to gas corporations as defined in section 386.020, RSMo. This section shall not affect any existing laws and shall only apply to the program established pursuant to this section.

2. As used in this section, the following terms mean:

(1) "Aggregate", the combination of natural gas supply and transportation services, including storage, requirements of eligible school entities served through a Missouri gas corporation's delivery system;

(2) "Commission", the Missouri public service commission; and

(3) "Eligible school entity", shall include any seven-director, urban or metropolitan school district as defined pursuant to section 160.011, RSMo, and shall also include, one year after the effective date of this section and thereafter, any school for elementary or secondary education situated in this state, whether a charter, private, or parochial school or school district.

3. Each Missouri gas corporation shall file with the commission, by August 1, 2002, a set of experimental tariffs applicable the first year to public school districts and applicable to all school districts, whether charter, private, public, or parochial, thereafter.

4. The tariffs required pursuant to subsection 3 of this section shall, at a minimum:

(1) Provide for the aggregate purchasing of natural gas supplies and pipeline transportation services on behalf of eligible school entities in accordance with aggregate purchasing contracts negotiated by and through a not-for-profit school association;

(2) Provide for the resale of such natural gas supplies, including related transportation service costs, to the eligible school entities at the gas corporation's cost of purchasing of such gas supplies and transportation, plus all applicable distribution costs, plus an aggregation and balancing fee to be determined by the commission, not to exceed four-tenths of one cent per therm delivered during the first year; and

(3) Not require telemetry or special metering, except for individual school meters over one hundred thousand therms annually.

5. The commission may suspend the tariff as required pursuant to subsection 3 of this section for a period ending no later than November 1, 2002, and shall approve such tariffs upon finding that implementation of the aggregation program set forth in such tariffs will not have any negative financial impact on the gas corporation, its other customers or local taxing authorities, and that the aggregation charge is sufficient to generate revenue at least equal to all incremental costs caused by the experimental aggregation program.

6. The commission may adopt by order such other procedures not inconsistent with this section which the commission determines are reasonable or necessary to administer the experimental program.

7. This section shall terminate June 30, 2005.

393.700. SHORT TITLE. — Sections 393.700 to 393.770 [and section 386.025, RSMo,] shall be known as the "Joint Municipal Utility Commission Act".

393.705. DEFINITIONS. — As used in sections 393.700 to 393.770 [and sections 386.025, RSMo, and 393.295], the following terms shall, unless the context clearly indicates otherwise, have the following meanings:

(1) "Bond" or "bonds", any bonds, interim certificates, notes, debentures or other obligations of a commission issued pursuant to sections 393.700 to 393.770 [and sections 386.025, RSMo, and 393.295];

(2) "Commission", any joint municipal utility commission established by a joint contract [under] **pursuant to** sections 393.700 to 393.770 [and sections 386.025, RSMo, and 393.295];

(3) "Contracting municipality", each municipality which is a party to a joint contract establishing a commission [under] **pursuant to** sections 393.700 to 393.770 [and sections 386.025, RSMo, and 393.295], a water supply district formed [under] **pursuant to** the provisions of chapter 247, RSMo, or a sewer district formed pursuant to the provisions of chapter 204, RSMo, or chapter 249, RSMo;

(4) "Joint contract", the contract entered into among or by and between two or more of the following contracting entities for the purpose of establishing a commission:

- (a) Municipalities;
- (b) Public water supply districts;
- (c) Sewer districts;
- (d) Nonprofit water companies; or

(e) Nonprofit sewer companies;

(5) "Person", a natural person, cooperative or private corporation, association, firm, partnership, or business trust of any nature whatsoever, organized and existing [under] **pursuant to** the laws of any state or of the United States and any municipality or other municipal corporation, governmental unit, or public corporation created under the laws of this state or the United States, and any person, board, or other body declared by the laws of any state or the United States to be a department, agency or instrumentality thereof;

(6) "Project", the purchasing, construction, extending or improving of any revenue-producing water, sewage, gas or electric light works, heating or power plants, including all real and personal property of any nature whatsoever to be used in connection therewith, together with all parts thereof and appurtenances thereto, used or useful in the generation, production, transmission, distribution excluding retail sales, purchase, sale, exchange, transport and treatment of sewage or interchange of water, sewage, electric power and energy, or any interest therein or right to capacity thereof and the acquisition of fuel of any kind for any such purposes.

393.715. POWERS OF COMMISSION — PURCHASE OF PRIVATE WATER UTILITY SERVING OUTSIDE MUNICIPAL LIMITS, EFFECT — SUCCESSORSHIP, CONTINUED AND NEW SERVICE AUTHORIZED, WHEN. — 1. The general powers of a commission to the extent provided in section 393.710 [herein and subject to the provisions of section 393.765 herein] shall include the power to:

(1) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate in, maintain, repair, extend or improve one or more projects, either exclusively or jointly or by participation with electric cooperative associations, municipally owned or public utilities or acquire any interest in or any rights to capacity of a project, within or outside the state, and act as an agent, or designate one or more other persons participating in a project to act as its agent, in connection with the planning, acquisition, construction, operation, maintenance, repair, extension or improvement of such project;

(2) Acquire, sell, distribute and process fuels necessary to the production of electric power and energy; provided, however, the commission shall not have the power or authority to erect, own, use or maintain a transmission line which is parallel or generally parallel to another transmission line in place within a distance of two miles, which serves the same general area sought to be served by the commission unless the public service commission finds that it is not feasible to utilize the transmission line which is in place;

(3) Acquire by purchase or lease, construct, install, and operate reservoirs, pipelines, wells, check dams, pumping stations, water purification plants, and other facilities for the production, wholesale distribution, and utilization of water and to own and hold such real and personal property as may be necessary to carry out the purposes of its organization; provided, however, that a commission shall not sell or distribute water, at retail or wholesale, within the certificated area of a water corporation which is subject to the jurisdiction of the public service commission unless the sale or distribution of water is within the boundaries of a public water supply district or municipality which is a contracting municipality in the commission and the commission has obtained the approval of the public service commission prior to commencing such said sale or distribution of water;

(4) Acquire by purchase or lease, construct, install, and operate lagoons, pipelines, wells, pumping stations, sewage treatment plants and other facilities for the treatment and transportation of sewage and to own and hold such real and personal property as may be necessary to carry out the purposes of its organization;

(5) Enter into operating, franchises, exchange, interchange, pooling, wheeling, transmission and other similar agreements with any person;

(6) Make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the commission;

(7) Employ agents and employees;

(8) Contract with any person, within or outside the state, for the construction of any project or for any interest therein or any right to capacity thereof, without advertising for bids, preparing final plans and specifications in advance of construction, or securing performance and payment of bonds, except to the extent and on such terms as its board of directors shall determine. Any contract entered into pursuant to this subdivision shall contain a provision that the requirements of sections 290.210 to 290.340, RSMo, shall apply;

(9) Purchase, sell, exchange, transmit, treat, dispose or distribute water, sewage, gas, heat or electric power and energy, or any by-product resulting therefrom, within and outside the state, in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, and to enter into agreements with any person with respect to such purchase, sale, exchange, treatment, disposal or transmission, on such terms and for such period of time as its board of directors shall determine. A commission may not sell or distribute water, gas, heat or power and energy, or sell sewage service at retail to ultimate customers outside the boundary limits of its contracting municipalities except pursuant to subsection 2 or 3 of this section;

(10) Acquire, own, hold, use, lease, as lessor or lessee, sell or otherwise dispose of, mortgage, pledge, or grant a security interest in any real or personal property, commodity or service or interest therein;

(11) Exercise the powers of eminent domain for public use as provided in chapter 523, RSMo, except that the power of eminent domain shall not be exercised against any electric cooperative association, municipally owned or public utility;

(12) Incur debts, liabilities or obligations including the issuance of bonds pursuant to the authority granted in section 27 of article VI of the Missouri Constitution;

(13) Sue and be sued in its own name;

(14) Have and use a corporate seal;

(15) Fix, maintain and revise fees, rates, rents and charges for functions, services, facilities or commodities provided by the commission;

(16) Make, and from time to time, amend and repeal, bylaws, rules and regulations not inconsistent with this section to carry into effect the powers and purposes of the commission;

(17) Notwithstanding the provisions of any other law, invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, including the proceeds from the sale of any bonds, in such obligations, securities and other investments as the commission deems proper;

(18) Join organizations, membership in which is deemed by the board of directors to be beneficial to accomplishment of the commission's purposes;

(19) Exercise any other powers which are deemed necessary and convenient by the commission to effectuate the purposes of the commission; and

(20) Do and perform any acts and things authorized by this section under, through or by means of an agent or by contracts with any person.

2. When a municipality purchases a privately owned water utility and a commission is created pursuant to sections 393.700 to 393.770, the commission may continue to serve those locations previously receiving water from the private utility even though the location receives such service outside the geographical area of the municipalities forming the commission. New water service may be provided in such areas if the site to receive such service is located within one-fourth of a mile from a site serviced by the privately owned water utility.

3. When a commission created by any of the contracting entities listed in subdivision (4) of section 393.705 becomes a successor to any nonprofit water corporation, nonprofit sewer corporation or other nonprofit agency or entity organized to provide water or sewer service, the commission may continue to serve, as well as provide new service to, those locations and areas previously receiving water or sewer service from such nonprofit entity, regardless of whether or not such location receives such service outside the geographical service area of the contracting

entities forming such commission; provided that such locations and areas previously receiving water and sewer service from such nonprofit entity are not located within:

- (1) Any county of the first classification with a population of more than six hundred thousand and less than nine hundred thousand;
- (2) The boundaries of any sewer district established pursuant to article VI, section 30(a) of the Missouri Constitution; or
- (3) The certificated area of a water or sewer corporation that is subject to the jurisdiction of the public service commission.

393.725. BONDS ISSUED TO BE REVENUE BONDS ONLY — FORM OF BONDS. — 1. Bonds issued pursuant to sections 393.700 to 393.770 by a commission shall be payable, as to the principal and interest, solely from the net revenues derived by the commission from the operation of the commission's project or projects, after providing for the costs of operation and maintenance of the commission's project or projects, or from any other funds made available to the commission from sources other than from proceeds of taxation.

2. Each bond issued pursuant to the provisions of sections 393.700 to 393.770 shall contain a statement that such bond is not an indebtedness of the state, or of any political subdivision thereof, other than the joint municipal utility commission, or of the contracting municipalities, the contracting public water supply districts or the contracting sewer districts, but shall be special obligations of the commission only and that neither the faith and credit nor the taxing power of the state or of any political subdivision thereof, or of the contracting municipalities, contracting public water supply districts or contracting sewer districts is pledged to the payment of or the interest on such bonds. The bonds shall not be deemed to be an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness. Neither the members of the board of directors of a commission nor any person executing the bonds shall be liable personally on the bonds by reason of the lawful issuance thereof.

3. A commission, subject to the provisions of section 393.760, may from time to time issue its bonds in such principal amounts as it deems necessary to provide sufficient funds to purchase, construct, extend or improve a project, including the establishment or increase of reserves, interest accrued during construction of such project and for a period not exceeding one year after the completion of construction of such project, and the payment of all other costs or expenses of the commission incident to and necessary or convenient to carry out its corporate purposes and powers.

4. Bonds of a commission shall be authorized by resolution of the board of directors and may be issued under such resolution or under a trust indenture or other security instrument, as authorized by the resolution, in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either coupon, registered or both, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places within or without the state, and be subject to such terms of redemption, with or without premium, as such resolution, trust indenture or other security instrument may provide, and without limitation by the provisions of any other law limiting amounts, maturities or interest rates.

5. The bonds shall be sold at public sale [and in the event of a rejection of all bids by the commission, the bonds may be sold] **or** at private sale as the commission may provide and at such price or prices as the commission shall determine [or for a joint municipal utility commission within a fifteen-county area being served with water from a lake constructed by the U.S. Army Corps of Engineers and located north of the Missouri River, if the commission determines it is in the best interest of the commission, at private sale. The reason or reasons why private sale is in the best interest of the people served shall be set forth in the order or resolution authorizing the private sale]. The decision of the commission shall be conclusive.

6. The bonds may be signed by manual or facsimile signatures as determined by resolution of the board. In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such obligations, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the officers had remained in office until such delivery.

7. Pending preparation of definitive bonds, a commission may issue temporary bonds which shall be exchanged for the definitive bonds when such bonds shall have been executed and are available for delivery.

8. All bonds issued under the provisions of sections 393.700 to 393.770 shall be negotiable instruments [under] **pursuant to** the provisions of the uniform commercial code of the state.

393.740. CERTAIN TAXES APPLICABLE. — 1. All bonds issued pursuant to sections 393.700 to 393.770 and all income or interest thereon shall be exempt from all state taxes, except estate and transfer taxes.

2. All property, real and tangible personal, **except for properties acquired exclusively for water supply districts**, acquired by the bonds issued pursuant to sections 393.700 and 393.770 or otherwise acquired by a commission shall be subject to taxation for state, county, and municipal and other local purposes **only** to the same extent as [bridge and public utility companies under the provisions of sections 153.030, RSMo, and 138.420, RSMo, except for those properties acquired exclusively for water supply districts] **if such property was owned directly by each participating municipality in proportion to the percentage of each municipality's interest or participation in the facility or property.**

SECTION 1. EMISSIONS LIMITATION FOR CERTAIN COAL-FIRED CYCLONE BOILERS — EXPIRATION DATE. — Notwithstanding any provisions of law to the contrary, any utility unit, as defined in Title IV of the federal Clean Air Act, 42 U.S.C. Section 7851a, that uses coal-fired cyclone boilers which also burn tire derived fuel shall limit emissions of oxides of nitrogen to a rate no greater than eighty percent of the emission limit for cyclone-fired boilers in Title IV of the federal Clean Air Act and implementing regulations in 40 CFR Part 76, as amended. The provisions of this section shall expire on April 30, 2004, or upon the effective date of a revision to 10 CSR 10-6.350, whichever later occurs. The director of the department of natural resources shall notify the revisor of statutes of the effective date of a revision to 10 CSR 10-6.350.

[386.025. CERTAIN JOINT MUNICIPAL UTILITY COMMISSIONS TO BE CONSIDERED UTILITY CORPORATIONS. — Any joint municipal utility commission established by contract for the purpose of owning, operating, controlling or managing all or part of any gas or electric light works, heating or power plants, or gas or electrical production, distribution or transmission facilities shall be considered a gas corporation or electrical corporation, as the case may be, as those terms are defined in this chapter.]

[393.295. PROVISIONS OF CHAPTERS 386 AND 393, RSMO, APPLICABLE TO CERTAIN JOINT MUNICIPAL UTILITY COMMISSIONS. — All provisions of this chapter and chapter 386, RSMo, concerning court proceedings and the jurisdiction, supervision, powers and duties of the public service commission with reference to gas corporations and electrical corporations, including, but not limiting by enumeration those provisions concerning supervision, investigations, complaints, hearings, reports, approval of certificates of franchises, granting of certificates, approval of issues of stocks, bonds, notes and other evidence of indebtedness, keeping of accounts, fixing of just and reasonable rates, which shall be based on costs associated with any property of such corporations, shall be and are hereby made fully applicable to any joint municipal utility commission which owns, operates, controls or manages all or part of any gas or electric light works, heating or power plants, electrical energy resources or gas or electrical

production, distribution or transmission facilities in this state. Nothing contained herein, however, shall affect the rights, privileges or duties of existing corporations pursuant to this chapter, including the construction of facilities within an existing certificated area.]

[393.765. PUBLIC SERVICE COMMISSION LAW APPLICABLE. — All provisions of chapters 386, RSMo, and 393 in reference to the jurisdiction, supervision, powers and duties of the public service commission with reference to gas and electrical corporations are hereby made applicable to any commission proposed to be created pursuant to sections 393.700 to 393.770 which commission proposes to own, operate, control or manage any gas or electrical light works, heating or power plant in this state, and such provisions shall have full application thereto.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to authorize certain utility projects, the enactment of section 393.310, of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section 393.310 of this act shall be in full force and effect upon its passage and approval.

Approved July 11, 2002

HB 1403 [SS SCS HCS HB 1403]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Regulates retainage clauses in construction contracts.

AN ACT to amend chapter 436, RSMo, by adding thereto thirteen new sections relating to retainage in private building contracts.

SECTION

- A. Enacting clause.
- 436.300. Private construction work contract payment requirements.
- 436.303. Contract provisions — retainage.
- 436.306. Security tendered, when.
- 436.309. Subcontractor may tender substitute security, when.
- 436.312. Substitute security requirements.
- 436.315. Withholding of retainage prohibited, when.
- 436.318. Release of retainage, payment made.
- 436.321. Adjustment in retainage, when.
- 436.324. Release of retainage, when.
- 436.327. Substantial completion defined.
- 436.330. Subcontractor obligations.
- 436.333. Unenforceability of contracts entered into after August 28, 2002.
- 436.336. Applicability.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 436, RSMo, is amended by adding thereto thirteen new sections, to be known as sections 436.300, 436.303, 436.306, 436.309, 436.312, 436.315, 436.318, 436.321, 436.324, 436.327, 436.330, 436.333, and 436.336, to read as follows:

436.300. PRIVATE CONSTRUCTION WORK CONTRACT PAYMENT REQUIREMENTS. — Notwithstanding any other law to the contrary, all parties to any contract or agreement for private construction work that is between any owner and any contractor, or between any contractor and any subcontractor, or between any subcontractor and any sub-subcontractor, or any supplier at whatever tier for construction, reconstruction, maintenance, alteration, or repair for a private owner of any building, improvement, structure, private road, appurtenance, or appliance, including moving, demolition, or any excavating connected therewith, shall make payment in accordance with the terms of such contract or agreement, provided such terms are not inconsistent with the provisions of sections 436.300 to 436.336.

436.303. CONTRACT PROVISIONS — RETAINAGE. — A contract or agreement may include a provision for the retainage of a portion of any payment due from the owner to the contractor, not to exceed ten percent of the amount of such payment due pursuant to the contract or agreement, to ensure the proper performance of the contract or agreement, provided that the contract may provide that if the contractor's performance is not in accordance with the terms of the contract or agreement, the owner may retain additional sums to protect the owner's interest in satisfactory performance of the contract or agreement. The amount or amounts so retained by the owner shall be referred to in sections 436.300 to 436.336 as "retainage", and shall be held by the owner in trust for the benefit of the contractor and contractor's subcontractors, sub-subcontractors, and suppliers at whatever tier who are not in default, in proportion to their respective interests. Such retainage shall be subject to the conditions and limitations listed in section 436.300 to 436.336.

436.306. SECURITY TENDERED, WHEN. — 1. The contractor may tender to the owner acceptable substitute security as set forth in section 436.312 with a written request for release of retainage in the amount of the substitute security. The contractor shall thereupon either:

- (1) Be entitled to receive cash payment of retainage pursuant to this section; or
- (2) Not be subject to the withholding of retainage, in either case, to the extent of the security tendered, provided that the contractor is not in default of its agreement with the owner.

2. If the tender described in subsection 1 of this section is made after retainage has been withheld, the owner shall, within five working days after receipt of the tender, pay to the contractor the withheld retainage to the extent of the substitute security. If the tender described in subsection 1 of this section is made before retainage has been withheld, the owner shall, to the extent of the substitute security, refrain from withholding any retainage from the future payments.

436.309. SUBCONTRACTOR MAY TENDER SUBSTITUTE SECURITY, WHEN. — A subcontractor of the contractor may tender to the contractor acceptable substitute security as set forth in section 436.312 with a written request for release of retainage in the amount of the substitute security. The contractor shall tender the subcontractor's substitute security to the owner with a like request, pursuant to the provisions of section 436.306. Provided that the subcontractor is not in default of its agreement with the contractor, the contractor shall pay over to the subcontractor, within five working days after receipt, any accumulated retainage paid by the owner to the contractor on account of substitute security tendered by the subcontractor, except that the contractor shall not be required to pay over retainage in excess of the amount properly attributable to work completed by the subcontractor at the time of payment. Provided that the subcontractor is not in default of its agreement with the contractor, the contractor shall refrain from withholding retainage

from payments to the subcontractor to the extent the owner has refrained from withholding retainage from payments to the contractor on account of the subcontractor's substituted security. The subcontractor shall be entitled to receive, upon receipt by the contractor, all income received by the contractor from the owner on account of income producing securities deposited by the subcontractor as substitute security. Except as otherwise provided in this section, the contractor shall have no obligation to collect or pay to a subcontractor retainage on account of substitute security tendered by the subcontractor.

436.312. SUBSTITUTE SECURITY REQUIREMENTS. — 1. The following shall constitute acceptable substitute security for purposes of sections 436.306 and 436.309:

(1) Certificates of deposit drawn and issued by a national banking association located in this state or by any banking corporation incorporated pursuant to the laws of this state; and mutually agreeable to the project owner and the contractor or subcontractor, in the amount of the retainage released. If the letter of credit is not renewed at least sixty days before the expiration of the letter of credit, the owner may draw upon the letter of credit regardless of the contractor's or subcontractor's performance for an amount equal to or no greater than the value of the amount of work remaining to be performed by the contractor or subcontractor.

(2) A retainage bond naming the owner as obligee issued by any surety company authorized to issue surety bonds in this state in the amount of the retainage released; or

(3) An irrevocable and unconditional letter of credit in favor of the owner, issued by a national banking association located in this state or by any banking corporation incorporated pursuant to the laws of this state, in the amount of the retainage released.

2. The contractor shall be entitled to receive, in all events, all interest and income earned on any securities deposited by the contractor in substitution for retainage.

436.315. WITHHOLDING OF RETAINAGE PROHIBITED, WHEN. — A contractor shall not withhold from any subcontractor any retainage in excess of the retainage withheld from the contractor by the owner for the subcontractor's work, unless the subcontractor's performance is not in accordance with the terms of the subcontract, in which case, subject to the terms of the subcontract, the contractor may retain additional sums to ensure the subcontractor's satisfactory performance of the subcontract.

436.318. RELEASE OF RETAINAGE, PAYMENT MADE. — Upon the release of retainage by the owner to the contractor, other than for substituted security pursuant to sections 436.306 and 436.312, the contractor shall pay to each subcontractor the subcontractor's ratable share of the retainage released, provided that all conditions of the subcontract for release of retainage to the subcontractor have been satisfied.

436.321. ADJUSTMENT IN RETAINAGE, WHEN. — If it is determined that a subcontractor's performance has been satisfactorily completed and the subcontractor can be released prior to substantial completion of the entire project without risk to the owner involving the subcontractor's work, the contractor shall request such adjustment in retainage, if any, from the owner as necessary to enable the contractor to pay the subcontractor in full, and the owner shall as part of the next contractual payment cycle release the subcontractor's retainage to the contractor, who shall in turn as part of the next contractual payment cycle release such retainage as is due the subcontractor.

436.324. RELEASE OF RETAINAGE, WHEN. — Within thirty days of the project reaching substantial completion, as defined in section 436.327, all retainage or substitute security shall be released by the owner to the contractor less an amount equal to one hundred fifty

percent of the costs to complete any remaining items. Upon receipt of such retainage from the owner, the contractor shall within seven days release to each subcontractor that subcontractor's share of the retainage.

436.327. SUBSTANTIAL COMPLETION DEFINED. — The project shall be deemed to have reached substantial completion upon the occurrence of the earlier of the architect or engineer issuing a certificate of substantial completion in accordance with the terms of the contract documents or the owner accepting the performance of the full contract.

436.330. SUBCONTRACTOR OBLIGATIONS. — Subcontractors and sub-subcontractors of every tier shall comply with the provisions of sections 436.300 to 436.336 in their relations with their sub-subcontractors and suppliers and shall be bound by the same obligations to their sub-subcontractors and suppliers as contractors are to their subcontractors.

436.333. UNENFORCEABILITY OF CONTRACTS ENTERED INTO AFTER AUGUST 28, 2002. — A contract or agreement formed after August 28, 2002, shall be unenforceable to the extent that its provisions are inconsistent with sections 436.300 to 436.336. If retainage is withheld in violation of sections 436.300 to 436.360, a court may, in addition to any other award for damages, award interest at the rate of up to one and one-half percent per month from the date of such wrongful or improper withholding of retainage. In any action brought to enforce sections 436.300 to 436.336, a court may award reasonable attorney's fees to the prevailing party. If the parties elect to resolve the dispute by arbitration pursuant to section 436.350, the arbitrator may award any remedy that a court is authorized to award.

436.336. APPLICABILITY. — Sections 436.300 to 436.336 shall apply to contracts and agreements entered into after August 28, 2002. Sections 436.300 to 436.336 shall apply to all private construction projects, except single-family residential construction and other residential construction consisting of four or fewer units.

Approved July 11, 2002

HB 1406 [SCS HB 1406]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates new requirements for board of regents of Northwest Missouri State University.

AN ACT to amend chapter 174, RSMo, by adding thereto one new section relating to the board of regents of Northwest Missouri State University.

SECTION

A. Enacting clause.

174.332. Northwest Missouri State University, board of regents, members.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 174, RSMo, is amended by adding thereto one new section, to be known as section 174.332, to read as follows:

174.332. NORTHWEST MISSOURI STATE UNIVERSITY, BOARD OF REGENTS, MEMBERS. — Notwithstanding the provisions of section 174.050 to the contrary, the board of regents of Northwest Missouri State University shall be composed of nine members, six of whom shall reside in the district in which the university is situated with at least one member of the board being a resident of Nodaway County and two additional members selected from any of the seven college districts as contained in section 174.010, provided that no more than one member be appointed from the same congressional district, one of which shall serve a term of three years and one of which shall serve a term of six years. All subsequent members appointed shall serve a term of six years pursuant to the provisions of section 174.070.

Approved July 12, 2002

HB 1443 [SS SCS HCS HB 1443]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Enacts the "Safe Place for Newborns Act of 2002".

AN ACT to repeal sections 192.016 and 453.030, RSMo, and to enact in lieu thereof three new sections relating to child abandonment.

SECTION

- A. Enacting clause.
- 192.016. Putative father registry.
- 210.950. Safe Place for Newborns Act — definitions — procedure — immunity from liability.
- 453.030. Approval of court required — how obtained, consent of child and parent required, when — validity of consent — withdrawal of consent — forms, developed by department, contents — court appointment of attorney, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 192.016 and 453.030, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 192.016, 210.950 and 453.030, to read as follows:

192.016. PUTATIVE FATHER REGISTRY. — 1. The department of health and senior services shall establish a putative father registry which shall record the names and addresses of:

- (1) Any person adjudicated by a court of this state to be the father of a child born out of wedlock;
- (2) Any person who has filed with the registry before or after the birth of a child out of wedlock, a notice of intent to claim paternity of the child;
- (3) Any person adjudicated by a court of another state or territory of the United States to be the father of an out-of-wedlock child, where a certified copy of the court order has been filed with the registry by such person or any other person.

2. A person filing a notice of intent to claim paternity of a child or an acknowledgment of paternity shall file the acknowledgment affidavit form developed by the state registrar which shall include the minimum requirements prescribed by the Secretary of the United States Department of Health and Human Services pursuant to 42 U.S.C. Section [652(2)(7)] **652 (a)(7)**.

3. A person filing a notice of intent to claim paternity of a child shall notify the registry of any change of address.

4. A person who has filed a notice of intent to claim paternity may at any time revoke a notice of intent to claim paternity previously filed therewith and, upon receipt of such notification by the registry, the revoked notice of intent to claim paternity shall be deemed a nullity nunc pro tunc.

5. An unrevoked notice of intent to claim paternity of a child may be introduced in evidence by any party, other than the person who filed such notice, in any proceeding in which such fact may be relevant.

6. The department shall, upon request and within two business days of such request, provide the names and addresses of persons listed with the registry to any court or authorized agency, or entity or person named in section 453.014, RSMo, and such information shall not be divulged to any other person, except upon order of a court for good cause shown.

7. The department of health and senior services shall:

(1) Prepare forms for registration of paternity and an application for search of the putative father registry;

(2) Produce and distribute a pamphlet or publication informing the public about the putative father registry, including the procedures for voluntary acknowledgment of paternity, the consequences of acknowledgment and failure to acknowledge paternity pursuant to section 453.010, RSMo, and the address of the putative father registry. Such pamphlet or publication shall be made available for distribution at all offices of the department of health and senior services. The department shall also provide such pamphlets or publications to the department of social services, hospitals, libraries, medical clinics, schools, universities, and other providers of child-related services upon request;

(3) Provide information to the public at large by way of general public service announcements, or other ways to deliver information to the public about the putative father registry and its services.

210.950. SAFE PLACE FOR NEWBORNS ACT — DEFINITIONS — PROCEDURE — IMMUNITY FROM LIABILITY. — 1. This section shall be known and may be cited as the "Safe Place for Newborns Act of 2002". The purpose of this section is to protect newborn children from injury and death caused by abandonment by a parent, and to provide safe and secure alternatives to such abandonment.

2. As used in this section, the following terms mean:

(1) "Hospital", as defined in section 197.020, RSMo;

(2) "Nonrelinquishing parent", the biological parent who does not leave a newborn infant with any person listed in subsection 3 of this section in accordance with this section;

(3) "Relinquishing parent", the biological parent or person acting on such parent's behalf who leaves a newborn infant with any person listed in subsection 3 of this section in accordance with this section.

3. A parent shall not be prosecuted for a violation of sections 568.030, 568.032, 568.045 or 568.050, RSMo, for actions related to the voluntary relinquishment of a child up to five days old pursuant to this section and it shall be an affirmative defense to prosecution for a violation of sections 568.030, 568.032, 568.045 and 568.050, RSMo, that a parent who is a defendant voluntarily relinquished a child no less than six days old but no more than thirty days old pursuant to this section if:

(1) Expressing intent not to return for the child, the parent voluntarily delivered the child safely to the physical custody of any of the following persons:

(a) An employee, agent, or member of the staff of any hospital, in a health care provider position or on duty in a nonmedical paid or volunteer position;

(b) A firefighter or emergency medical technician on duty in a paid position or on duty in a volunteer position; or

- (c) A law enforcement officer;
- (2) The child was no more than thirty days old when delivered by the parent to any person listed in subdivision (1) of this subsection; and
- (3) The child has not been abused or neglected by the parent prior to such voluntary delivery.

4. A person listed in subdivision (1) of subsection 3 of this section shall, without a court order, take physical custody of a child the person reasonably believes to be no more than thirty days old and is delivered in accordance with this section by a person purporting to be the child's parent. If delivery of a newborn is made pursuant to this section in any place other than a hospital, the person taking physical custody of the child shall arrange for the immediate transportation of the child to the nearest hospital licensed pursuant to chapter 197, RSMo.

5. The hospital, its employees, agents and medical staff shall perform treatment in accordance with the prevailing standard of care as necessary, to protect the physical health or safety of the child. The hospital shall notify the division of family services and the local juvenile officer upon receipt of a child pursuant to this section. The local juvenile officer shall immediately begin protective custody proceedings and request the child be made a ward of the court during the child's stay in the medical facility. Upon discharge of the child from the medical facility and pursuant to a protective custody order ordering custody of the child to the division, the division of family services shall take physical custody of the child. The parent's voluntary delivery of the child in accordance with this section shall constitute the parent's implied consent to any such act and a voluntary relinquishment of such parent's parental rights.

6. In any termination of parental rights proceeding initiated after the relinquishment of a child pursuant to this section, the juvenile officer shall make public notice that a child has been relinquished, including the sex of the child, and the date and location of such relinquishment. Within thirty days of such public notice, the nonrelinquishing parent wishing to establish parental rights shall identify himself or herself to the court and state his or her intentions regarding the child. The court shall initiate proceedings to establish paternity, or if no person identifies himself as the father within thirty days, maternity. The juvenile officer shall make examination of the putative father registry established in section 192.016, RSMo, to determine whether attempts have previously been made to preserve parental rights to the child. If such attempts have been made, the juvenile officer shall make reasonable efforts to provide notice of the abandonment of the child to such putative father.

7. (1) If a relinquishing parent of a child relinquishes custody of the child to any person listed in subsection 3 of this section in accordance with this section and to preserve the parental rights of the nonrelinquishing parent, the nonrelinquishing parent shall take such steps necessary to establish parentage within thirty days after the public notice or specific notice provided in subsection 6 of this section.

(2) If a nonrelinquishing parent fails to take steps to establish parentage within the thirty-day period specified in subdivision (1) of this subsection, the nonrelinquishing parent may have all of his or her rights terminated with respect to the child.

(3) When a nonrelinquishing parent inquires at a hospital regarding a child whose custody was relinquished pursuant to this section, such facility shall refer the nonrelinquishing parent to the division of family services and the juvenile court exercising jurisdiction over the child.

8. The persons listed in subdivision (1) of subsection 3 of this section shall be immune from civil, criminal, and administrative liability for accepting physical custody of a child pursuant to this section if such persons accept custody in good faith. Such immunity shall not extend to any acts or omissions, including negligent or intentional acts or omissions, occurring after the acceptance of such child.

9. The division of family services shall:

(1) **Provide information and answer questions about the process established by this section on the statewide, toll-free telephone number maintained pursuant to section 210.145, RSMo;**

(2) **Provide information to the public by way of pamphlets, brochures, or by other ways to deliver information about the process established by this section.**

10. Nothing in this section shall be construed as conflicting with section 210.125.

453.030. APPROVAL OF COURT REQUIRED — HOW OBTAINED, CONSENT OF CHILD AND PARENT REQUIRED, WHEN — VALIDITY OF CONSENT — WITHDRAWAL OF CONSENT — FORMS, DEVELOPED BY DEPARTMENT, CONTENTS — COURT APPOINTMENT OF ATTORNEY, WHEN. — 1. In all cases the approval of the court of the adoption shall be required and such approval shall be given or withheld as the welfare of the person sought to be adopted may, in the opinion of the court, demand.

2. The written consent of the person to be adopted shall be required in all cases where the person sought to be adopted is fourteen years of age or older, except where the court finds that such child has not sufficient mental capacity to give the same.

3. With the exceptions specifically enumerated in section 453.040, when the person sought to be adopted is under the age of eighteen years, the written consent of the following persons shall be required and filed in and made a part of the files and record of the proceeding:

(1) The mother of the child; and

(2) Any man who:

(a) Is presumed to be the father pursuant to the subdivisions (1), (2), **or** (3) [or (5)] of subsection 1 of section 210.822, RSMo; or

(b) Has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child; or

(c) Filed with the putative father registry pursuant to section 192.016, RSMo, a notice of intent to claim paternity or an acknowledgment of paternity either prior to or within fifteen days after the child's birth, and has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child; or

(3) The child's current adoptive parents or other legally recognized mother and father.

Upon request by the petitioner and within one business day of such request, the clerk of the local court shall verify whether such written consents have been filed with the court.

4. The written consent required in subdivisions (2) and (3) of subsection 3 of this section may be executed before or after the commencement of the adoption proceedings, and shall be acknowledged before a notary public. In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons whose signatures and addresses shall be plainly written thereon. The two adult witnesses shall not be the prospective adoptive parents or any attorney representing a party to the adoption proceeding. The notary public or witnesses shall verify the identity of the party signing the consent.

5. The written consent required in subdivision (1) of subsection 3 of this section by the birth parent shall not be executed anytime before the child is forty-eight hours old. Such written consent shall be executed in front of a judge or a notary public. In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons who are present at the execution whose signatures and addresses shall be plainly written thereon and who determine and certify that the consent is knowingly and freely given. The two adult witnesses shall not be the prospective adoptive parents or any attorney representing a party to the adoption proceeding. The notary public or witnesses shall verify the identity of the party signing the consent.

6. The written consents shall be reviewed and, if found to be in compliance with this section, approved by the court within three business days of such consents being presented to the

court. Upon review, in lieu of approving the consent within three business days, the court may set a date for a prompt evidentiary hearing upon notice to the parties. Failure to review and approve the written consent within three business days shall not void the consent, but a party may seek a writ of mandamus from the appropriate court, unless an evidentiary hearing has been set by the court pursuant to this subsection.

7. The written consent required in subsection 3 of this section may be withdrawn anytime until it has been reviewed and accepted by a judge.

8. A consent form shall be developed through rules and regulations promulgated by the department of social services. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. If a written consent is obtained after August 28, 1997, but prior to the development of a consent form by the department and the written consent complies with the provisions of subsection 9 of this section, such written consent shall be deemed valid.

9. However, the consent form must specify that:

(1) The birth parent understands the importance of identifying all possible fathers of the child and shall provide the names of all such persons unless the mother has good cause as to why she should not name such persons. The court shall determine if good cause is justifiable. By signing the consent, the birth parent acknowledges that those having an interest in the child have been supplied with all available information to assist in locating all possible fathers; and

(2) The birth parent understands that if he denies paternity, but consents to the adoption, he waives any future interest in the child.

10. The written consent to adoption required by subsection 3 and executed through procedures set forth in subsection 5 of this section shall be valid and effective even though the parent consenting was under eighteen years of age, if such parent was represented by a guardian ad litem, at the time of the execution thereof.

11. Where the person sought to be adopted is eighteen years of age or older, his written consent alone to his adoption shall be sufficient.

12. A birth parent, including a birth parent less than eighteen years of age, shall have the right to legal representation and payment of any reasonable legal fees incurred throughout the adoption process. In addition, the court may appoint an attorney to represent a birth parent if:

(1) A birth parent requests representation;

(2) The court finds that hiring an attorney to represent such birth parent would cause a financial hardship for the birth parent; and

(3) The birth parent is not already represented by counsel.

13. Except in cases where the court determines that the adoptive parents are unable to pay reasonable attorney fees and appoints pro bono counsel for the birth parents, the court shall order the costs of the attorney fees incurred pursuant to subsection 12 of this section to be paid by the prospective adoptive parents or the child-placing agency.

Approved July 2, 2002

HB 1455 [SS SCS HS HB 1455]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Clarifies the retroactive starting date for purposes of the BACKDROP retirement provisions.

AN ACT to repeal sections 50.1020, 50.1040, 86.200, 86.213, 86.251, 86.255, 86.256, 87.207, 87.235, 104.050, 104.095, 104.110, 104.140, 104.250, 104.254, 104.270, 104.335, 104.344, 104.350, 104.374, 104.380, 104.400, 104.436, 104.438, 104.515, 104.540, 104.601, 104.620, 104.625, 104.800, 104.1015, 104.1018, 104.1021, 104.1024, 104.1039, 104.1054, 104.1066, 104.1072, 104.1075, 104.1084, 104.1093, 104.1200, 104.1210, 104.1215, 217.665 and 476.517, RSMo, and to enact in lieu thereof fifty-three new sections relating to public retirement systems, with an emergency clause.

SECTION

- A. Enacting clause.
- 50.1020. Source of funds, delinquent tax penalties — county assessor, duties — deposit of funds — payroll deduction.
- 50.1040. Membership in system — payroll deduction for nonLAGERS members — opting out prohibited, exceptions — opting in, when.
- 86.200. Definitions.
- 86.213. Board of trustees to administer — members of board, selection — terms.
- 86.251. Deferred retirement option plan — election — deposit of retirement allowance in DROP account — termination of participation, when — forms of payment — effect of participation — death of member, payment of funds — accidental disability retirement allowance, effect — interest, amount — approval by IRS — election for monthly survivor annuity, when.
- 86.255. Eligible rollover distribution payable, election to pay directly to plan — definitions — written explanation required by board, when — distribution made, when.
- 86.256. Annual benefit not to exceed certain amount — annual additions not to exceed certain amount — combined plan limitation not to be exceeded — incorporation by reference of Internal Revenue Code.
- 86.294. Contributions to be accepted after January 1, 2002, limitations.
- 86.296. Trustee to trustee transfers to be accepted after January 1, 2002.
- 87.177. Service retirement allowance, eligibility, application, benefits — survivor's right to share of benefits — cost-of-living allowance.
- 87.207. Cost-of-living increase, how determined.
- 87.231. Surviving spouse as special consultant to the board, when — compensation — effect on eligibility for retirement benefits.
- 87.235. Payments on proof of accidental death in service — beneficiaries.
- 87.238. Retired firefighters to act as special advisors to retirement system, when — compensation.
- 104.050. Years of service used in calculating annuity — noncompensated absences for illness and injury, effect — withdrawal before entitled to deferred annuity, relinquishes all rights — reinstatement of forfeited service, when.
- 104.110. Disability benefits, who entitled, how calculated — medical examination required, when — proof of application for Social Security benefits — death benefit, not payable, when — board to establish definitions — annuity benefits, accrual, election — death benefit, eligibility, when.
- 104.140. Death prior to retirement, benefits.
- 104.250. Law creates vested rights — benefits exempt from taxes and executions.
- 104.254. Spouses of deceased retired members appointed as special consultants, when — duties — compensation — not to affect other benefits.
- 104.270. Insurance benefits to be furnished, how — state contribution, amount — contracts for, how let.
- 104.335. Vesting service — members who are entitled to annuities — requirements, amounts — terminated vested member, judge, administrative law judge or legal advisor, election to pay present value of annuity, eligibility, purchase of prior service credit.
- 104.344. Member entitled to purchase prior creditable service for nonfederal full-time public employment or contractual services — method, period, limitation.
- 104.350. Withdrawal from service, when, reentry after withdrawal, how made — forfeiture and reinstatement of creditable service, when.
- 104.374. State employee's normal annuity, computation — noncompensated absences counted as membership service, when — employees and general assembly members continuing to serve, cost-of-living increases on retirement or death.
- 104.380. Retired members elected to state office, effect of — reemployment of retired members, effect of.
- 104.400. Normal retirement age — early retirement requirements — annuity, how computed.
- 104.436. Financing pattern for contribution determinations — commissioner of administration to certify payment.
- 104.438. Benefit funds, pay period certification of amount required — treasurer to transfer amount to fund.
- 104.515. Insurance and disability benefits to be kept in separate accounts — state's contribution, amount, contribution to be made from highway funds for certain employees, when — employees and families, who are covered for medical insurance — premium collection for amount not covered by state — special consultants, duties, compensation, benefits.
- 104.540. Law creates vested rights — certain contributions may be withheld from benefits and paid over.

- 104.601. Years of service to include unused accumulated sick leave, when — credited sick leave not counted for vesting purposes — applicable also to teachers' and school employees' retirement system.
- 104.605. Eligible rollover distribution and eligible retirement plan defined — compliance with IRS code required.
- 104.620. Contribution refund to members — effect on benefits — record retention — reversion to credit of fund, when — reversion of unclaimed benefits, when — refund received, when.
- 104.625. Annuities and lump sum payments, when, determination of amount.
- 104.800. Transfers of creditable service to other retirement system — transfer to be made, when — effect of transfer — death of member prior to retirement and transfer to be computed under system with most advantageous benefits.
- 104.1015. Election into year 2000 plan, effect of — comparison of plans provided — calculation of annuity.
- 104.1018. Vesting of benefits, when — reemployment of member, effect of.
- 104.1021. Credited service determined by board — calculation.
- 104.1024. Retirement, application — annuity payments, how paid, amount — election to receive annuity or lump sum payment for certain employees, determination of amount.
- 104.1039. Reemployment of a retiree, effect on annuity.
- 104.1054. Benefits are obligations of the state — benefits not subject to execution, garnishment, attachment, writ of sequestration — benefits unassignable — reversion of benefits, when — refund received, when.
- 104.1055. Eligible rollover distribution and eligible retirement plan defined — compliance with IRS code, when.
- 104.1066. Actuarial evaluations, methods used — certification of contribution rate, when.
- 104.1072. Life insurance benefits — medical insurance for certain retirees.
- 104.1075. Disability income benefits.
- 104.1084. Retirement benefits, general assembly members — COLA permitted, when — ineligibility for benefits.
- 104.1093. Designation of an agent — benefit recipient defined — revocation of agent's authority.
- 104.1200. Definitions.
- 104.1210. No credited service for outside employee or member, when — information provided by institutions and administrators, when.
- 104.1215. Outside employee's election for membership, when.
- 105.664. Actuarial valuation performed at least biennially.
- 217.665. Board members, appointment, qualifications — terms, vacancies — compensation, expenses — chairman, designation.
- 476.517. One-time retirement plan election for certain judges.
- 104.095. Death prior to retirement, surviving spouse's option for computation.
 - B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 50.1020, 50.1040, 86.200, 86.213, 86.251, 86.255, 86.256, 87.207, 87.235, 104.050, 104.095, 104.110, 104.140, 104.250, 104.254, 104.270, 104.335, 104.344, 104.350, 104.374, 104.380, 104.400, 104.436, 104.438, 104.515, 104.540, 104.601, 104.620, 104.625, 104.800, 104.1015, 104.1018, 104.1021, 104.1024, 104.1039, 104.1054, 104.1066, 104.1072, 104.1075, 104.1084, 104.1093, 104.1200, 104.1210, 104.1215, 217.665 and 476.517, RSMo, are repealed and fifty-three new sections enacted in lieu thereof, to be known as sections 50.1020, 50.1040, 86.200, 86.213, 86.251, 86.255, 86.256, 86.294, 86.296, 87.177, 87.207, 87.231, 87.235, 87.238, 104.050, 104.110, 104.140, 104.250, 104.254, 104.270, 104.335, 104.344, 104.350, 104.374, 104.380, 104.400, 104.436, 104.438, 104.515, 104.540, 104.601, 104.605, 104.620, 104.625, 104.800, 104.1015, 104.1018, 104.1021, 104.1024, 104.1039, 104.1054, 104.1055, 104.1066, 104.1072, 104.1075, 104.1084, 104.1093, 104.1200, 104.1210, 104.1215, 105.664, 217.665 and 476.517, to read as follows:

50.1020. SOURCE OF FUNDS, DELINQUENT TAX PENALTIES — COUNTY ASSESSOR, DUTIES — DEPOSIT OF FUNDS — PAYROLL DEDUCTION. — 1. The board may accept gifts, donations, grants and bequests from private or public sources to the county employees' retirement system fund.

2. No state moneys shall be used to fund sections 50.1000 to 50.1300.

3. In all counties, except counties of the first classification having a charter form of government and any city not within a county, the penalties provided in sections 137.280 and 137.345, RSMo, shall be deposited in the county employees' retirement fund. Any interest derived from the collection and investment of any part of the penalties shall also be credited to the county employees' retirement fund. All penalties and interest shall be transmitted to the board

monthly by the county treasurer. The county assessor shall maintain a written or electronic log reflecting number of assessment notices sent, number of personal property lists that were not returned by the deadline established by law, number of penalties waived and the reason for waiving such penalty.

4. Other provisions of law to the contrary notwithstanding, pending final settlement of taxes collected by the county collector, the county collector shall deposit all money collected in interest-bearing deposits within twenty-four hours after the close of business each day collections are received, except on Fridays of each week or on days prior to a state or national holiday, in a financial institution and all interest or other gain on such deposits shall be paid to the county treasurer and shall be credited to the political subdivision for which the funds were collected.

5. Each county clerk, except in counties of the first classification having a charter form of government and any city not within a county, shall make the payroll deductions mandated pursuant to subsection 2 or 3 of section 50.1040, and the county treasurer shall transmit these moneys monthly to the board for deposit into the county employees' retirement fund.

6. Each county, except counties of the first classification with a charter form of government and any city not within a county, shall deposit in the county employees' retirement fund each payroll period ending after December 31, 2002, an amount equal to four percent of the compensation paid in such payroll period to each employee hired or rehired by that county on or after February 25, 2002. Such deposit shall be paid out of the county funds or, at the county's election, in whole or in part through payroll deduction as described in subsection 2 of section 50.1040. All amounts due pursuant to this subsection shall be transmitted by the county treasurer to the county employees' retirement fund immediately following the payroll period for which such amounts are due. Each county clerk shall maintain a written or electronic log reflecting the employees hired or rehired by such county on or after February 25, 2002, the amount of each such employee's compensation, and the dollar amount due each payroll period by the county pursuant to this subsection with respect to each such employee, and shall provide such log to the county employees' retirement fund immediately following the payroll period for which such amounts are due.

50.1040. MEMBERSHIP IN SYSTEM — PAYROLL DEDUCTION FOR NONLAGERS MEMBERS — OPTING OUT PROHIBITED, EXCEPTIONS — OPTING IN, WHEN. — 1. On and after January 1, 2000, as an incident to employment or continued employment, each person who has not previously opted out of the retirement system who is employed as a county employee as defined in section 50.1000 and who is hired and fired by the county and whose work and responsibilities are directed and controlled by the county and who is compensated directly from county funds shall become a member of the system. Such membership shall continue as long as the person continues to be an employee, or receives benefits pursuant to the provisions of sections 50.1000 to 50.1300.

2. A member who is not a member of LAGERS shall be subject to a payroll deduction equal to two percent of the member's compensation. [This] **In addition, in order to meet the deposit required by subsection 6 of section 50.1020, a county may, in its discretion, subject any member, including a member of LAGERS, hired or rehired by that county on or after February 25, 2002, to an additional payroll deduction not to exceed four percent of the member's compensation. Such additional payroll deduction shall be used exclusively for the deposit in the county employees' retirement fund pursuant to subsection 6 of section 50.1020. Any payroll deduction pursuant to this subsection shall constitute the member's required contribution to the plan and [after January 1, 2000,] shall be designated as an employer "pick-up" contribution, as described in 26 U.S.C. 414(h)(2). A member may not waive this contribution, or terminate this contribution requirement by opting out of the retirement system.**

3. A county employee who is a member on January 1, 2000, and a county employee who is hired after January 1, 2000, shall not be permitted to opt out of the retirement system; except that, before January 1, 2000, a county employee did have the right to opt out of the retirement system. County employees who exercised this opt-out option must wait three years from the date the opt-out decision was made before becoming a member. After this three-year period has elapsed, the employee shall have a three-month period to opt into the system. If the employee opts into the system, such employee shall be subject to a payroll deduction of two percent, or one percent if the employee is also a member of the LAGERS, of the compensation received from the date the county employee opted out of the system, plus interest equal to the current prime rate plus two percent, to purchase all or part of this period of employment as creditable service. The payroll deduction shall be made in equal monthly installments for a time agreed to by the employee and the board, but in no event longer than four years.

4. An employee may opt into the retirement system, after having opted out, without purchasing any portion of his or her earlier service as creditable service. In such event, the deduction described in subsection 3 of this section shall not be imposed, and the employee shall become vested in the system after eight years of subsequent uninterrupted service.

5. Notwithstanding any other provisions of this section to the contrary, an employee who opted out of the retirement system before January 1, 2000, shall not be permitted to opt back into the system after January 1, 2000, unless the employee opts in, in accordance with the procedures of subsection 3 or 4 of this section, immediately following the expiration of the three-year opt-out period that includes January 1, 2000.

86.200. DEFINITIONS. — The following words and phrases as used in sections 86.200 to 86.366, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Accumulated contributions", the sum of all mandatory contributions deducted from the compensation of a member and credited to the member's individual account, together with members' interest thereon;

(2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of mortality tables and interest assumptions adopted by the board of trustees;

(3) "Average final compensation":

(a) With respect to a member who earns no creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last three years of creditable service as a police officer, or if the member has had less than three years of creditable service, the average earnable compensation of the member's entire period of creditable service;

(b) With respect to a member who is not participating in the DROP pursuant to section 86.251 on October 1, 2001, who did not participate in the DROP at any time before such date, and who earns any creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last two years of creditable service as a policeman, or if the member has had less than two years of creditable service, then the average earnable compensation of the member's entire period of creditable service;

(c) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and who terminates employment as a police officer for reasons other than death or disability before earning at least two years of creditable service after such return, the portion of the member's benefit attributable to creditable service earned before DROP entry shall be determined using average final compensation as defined in paragraph (a) of this subdivision; and the portion of the member's benefit attributable to creditable service earned after return to active participation in the system shall be determined using average final compensation as defined in paragraph (b) of this subdivision;

(d) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in the DROP ended before such date, who returns to

active participation in the system pursuant to section 86.251, and who terminates employment as a police officer after earning at least two years of creditable service after such return, the member's benefit attributable to all of such member's creditable service shall be determined using the member's average final compensation as defined in paragraph (b) of this subdivision;

(e) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and whose employment as a police officer terminates due to death or disability after such return, the member's benefit attributable to all of such member's creditable service shall be determined using the member's average final compensation as defined in paragraph (b) of this subdivision; and

(f) [If a member who is described in paragraph (c) or (e) of this subdivision completes less than one full year of creditable service after returning to active participation in the system, the member's earnable compensation for the period immediately prior to DROP entry shall be added to the member's earnable compensation after the member's return to active participation for purposes of determining such member's average final compensation for his or her last year of creditable service] **With respect to the surviving spouse or surviving dependent child of a member who earns any creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last two years of creditable service as a police officer or, if the member has had less than two years of creditable service, the average earnable compensation of the member's entire period of creditable service;**

(4) "Beneficiary", any person in receipt of a retirement allowance or other benefit;

(5) "Board of police commissioners", any board of police commissioners, police commissioners and any other officials or boards now or hereafter authorized by law to employ and manage a permanent police force in such cities;

(6) "Board of trustees", the board provided in sections 86.200 to 86.366 to administer the retirement system;

(7) "Creditable service", prior service plus membership service as provided in sections 86.200 to 86.366;

(8) "DROP", the deferred retirement option plan provided for in section 86.251;

(9) "Earnable compensation", the annual salary which a member would earn during one year on the basis of the member's rank or position as specified in the applicable salary matrix in section 84.160, RSMo, plus additional compensation for academic work as provided in subsection 9 of section 84.160, RSMo, plus shift differential as provided in subdivision (4) of subsection 10 of section 84.160, RSMo. Such amount shall [be determined without regard to] **include** the member's deferrals to a deferred compensation plan pursuant to Section 457 of the Internal Revenue Code or to a cafeteria plan pursuant to Section 125 of the Internal Revenue Code **or, effective October 1, 2001, to a transportation fringe benefit program pursuant to Section 132(f)(4) of the Internal Revenue Code.** Earnable compensation shall not include a member's additional compensation for overtime, standby time, court time, nonuniform time or unused vacation time. Notwithstanding the foregoing, the earnable compensation taken into account under the plan established pursuant to sections 86.200 to 86.366 with respect to a member who is a noneligible participant, as defined in this subdivision, for any plan year beginning on or after October 1, 1996, shall not exceed the amount of compensation that may be taken into account under Section 401(a)(17) of the Internal Revenue Code, as adjusted for increases in the cost of living, for such plan year. For purposes of this subdivision, a "noneligible participant" is an individual who first becomes a member on or after the first day of the first plan year beginning after the earlier of:

(a) The last day of the plan year that includes August 28, 1995; or

(b) December 31, 1995;

(10) "Internal Revenue Code", the federal Internal Revenue Code of 1986, as amended;

- (11) "Mandatory contributions", the contributions required to be deducted from the salary of each member who is not participating in DROP in accordance with section 86.320;
- (12) "Medical board", the board of physicians provided for in section 86.237;
- (13) "Member", a member of the retirement system as defined by sections 86.200 to 86.366;
- (14) "Members' interest", interest on accumulated contributions at such rate as may be set from time to time by the board of trustees;
- (15) "Membership service", service as a policeman rendered since last becoming a member, except in the case of a member who has served in the armed forces of the United States and has subsequently been reinstated as a policeman, in which case "membership service" means service as a policeman rendered since last becoming a member prior to entering such armed service;
- (16) "Plan year" or "limitation year", the twelve consecutive-month period beginning each October first and ending each September thirtieth;
- (17) "Policeman" or "police officer", any member of the police force of such cities who holds a rank in such police force for which the annual salary is listed in section 84.160, RSMo;
- (18) "Prior service", all service as a policeman rendered prior to the date the system becomes operative or prior to membership service which is creditable in accordance with the provisions of sections 86.200 to 86.366;
- (19) "Retirement allowance", annual payments for life as provided by sections 86.200 to 86.366 which shall be payable in equal monthly installments or any benefits in lieu thereof granted to a member upon termination of employment as a police officer and actual retirement;
- (20) "Retirement system", the police retirement system of the cities as defined in sections 86.200 to 86.366;
- (21) "Surviving spouse", the surviving spouse of a member who was the member's spouse at the time of the member's death.

86.213. BOARD OF TRUSTEES TO ADMINISTER — MEMBERS OF BOARD, SELECTION — TERMS. — 1. The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of sections 86.200 to 86.366 are hereby vested in a board of trustees of ten persons. The board shall be constituted as follows:

(1) The president of the board of police commissioners of the city, ex officio. If the president is absent from any meeting of the board of trustees for any cause whatsoever, the president may be represented by any member of the board of police commissioners who in such case shall have full power to act as a member of the board of trustees;

(2) The comptroller of the city, ex officio. If the comptroller is absent from any meeting of the board of trustees for any cause whatsoever, the comptroller may be represented by either the deputy comptroller or the first assistant comptroller who in such case shall have full power to act as a member of the said board of trustees;

(3) Three members to be appointed by the mayor of the city to serve for a term of two years;

(4) Three members to be elected by the members of the retirement system of the city for a term of three years; provided, however, that the term of office of the first three members so elected shall begin immediately upon their election and one such member's term shall expire one year from the date the retirement system becomes operative, another such member's term shall expire two years from the date the retirement system becomes operative and the other such member's term shall expire three years from the date the retirement system becomes operative; provided, further, that such members shall be members of the system and hold office only while members of the system;

(5) Two members who shall be retired members of the retirement system to be elected by the retired members of the retirement system for a term of three years; except that, the term of office of the first two members so elected shall begin immediately upon their election and one such member's term shall expire two years from the date of election and the other such member's term shall expire three years from the date of election.

2. Any member elected chairman of the board of trustees may serve [a total of four years in that capacity which shall be limited to no more than two consecutive terms] **without term limitations**.

3. Each commissioned elected trustee shall be granted travel time by the St. Louis metropolitan police department to attend any and all functions that have been authorized by the board of trustees of the police retirement system of St. Louis. Travel time, **with compensation**, for a trustee shall not exceed thirty days in any board fiscal year.

86.251. DEFERRED RETIREMENT OPTION PLAN — ELECTION — DEPOSIT OF RETIREMENT ALLOWANCE IN DROP ACCOUNT — TERMINATION OF PARTICIPATION, WHEN — FORMS OF PAYMENT — EFFECT OF PARTICIPATION — DEATH OF MEMBER, PAYMENT OF FUNDS — ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE, EFFECT — INTEREST, AMOUNT — APPROVAL BY IRS — ELECTION FOR MONTHLY SURVIVOR ANNUITY, WHEN. —

1. The board of trustees may develop and establish a deferred retirement option plan (DROP) in which members who are eligible for retirement but who have not terminated employment as police officers and who have not actually retired may participate. The DROP shall be designed to allow members with at least twenty years of creditable service or who have attained the age of fifty-five who have achieved eligibility for retirement and are entitled to a service retirement allowance and other benefits to postpone actual retirement, continue active employment and accumulate a deferred receipt of the service retirement allowance. No one shall participate in the DROP for a period exceeding five years.

2. Any member who has at least twenty years of creditable service or has attained the age of fifty-five may elect in writing before retirement to participate in the DROP. A member electing to participate in the DROP shall postpone actual retirement, shall continue in active employment and shall not receive any direct retirement allowance payments or benefits during the period of participation.

3. Upon the start of the participation in the DROP, the member shall cease to make any mandatory contributions to the system. No contribution shall be required by the city into the DROP account. During the period of participation in the DROP, the amount that the member would have received as a service retirement allowance if the member had actually retired instead of entering DROP shall be deposited monthly in the member's DROP account which shall be established in the member's name by the board of trustees. The member's service retirement allowance shall not be adjusted for any cost-of-living increases for any period prior to the member's termination of employment as a police officer and actual retirement. Cost-of-living increases, if any, for any period following the member's termination of employment as a police officer and actual retirement shall be applied only to monthly service retirement payments made following termination of employment as a police officer and actual retirement. Service earned during the period of participation in the DROP shall not be creditable service and shall not be counted in determination of any service retirement allowance or surviving spouse's or dependents' benefits. Compensation paid during the period of participation in the DROP shall not be earnable compensation and shall not be counted in the determination of any service retirement allowance or surviving spouse's or dependent's benefits. The member's service retirement allowance shall be frozen as of the date the member enters DROP. Except as specifically provided in sections 86.200 to 86.366, the member's frozen service retirement allowance shall not increase while the member is participating in DROP or after the member's participation in DROP ends, and the member shall not share in any benefit improvement that is enacted or that becomes effective while such member is participating in the DROP.

4. A member shall cease participation in the DROP upon the termination of the member's employment as a police officer and actual retirement, or at the end of the five-year period commencing on the first day of the member's participation in the DROP, or as of the effective date, but in no event prior to October 1, 2001, of the member's election to return to active participation in the system, whichever occurs first. A member's election to return to active

participation in the system before the end of the five-year period commencing on the first day of participation in the DROP shall be made and shall become effective in accordance with procedures established by the board of trustees, but in no event prior to October 1, 2001. Upon the member's termination of employment as a police officer and actual retirement, the member shall elect to receive the value of the member's DROP account, in one of the following forms of payment:

- (a) A lump sum payment; or
- (b) Equal monthly installments over a ten-year period.

Either form of payment should begin within thirty days after the member's notice to the board of trustees that the member has selected a particular option.

5. If a member who is participating in the DROP elects to return to active participation in the system or if a member who is participating in the DROP does not terminate employment as a police officer in the city for which the retirement system was established pursuant to sections 86.200 to 86.366 and actually retires at the end of the five-year period commencing on the first day of the member's participation in the DROP, the member shall return to active participation in the system and shall resume making mandatory contributions to the system effective as of the day after participation in the DROP ends or, if later, October 1, 2001. The board of trustees shall notify the police commissioners to begin deducting mandatory contributions from the member's salary and the member's employment period shall count as creditable service beginning as of the day the member returns to active participation.

6. In no event shall a member whose participation in DROP has ended for any reason be eligible to participate in DROP again.

7. Upon the member's termination of employment as a police officer and actual retirement, the member's mandatory contributions to the retirement system shall be paid to the member pursuant to subsection 4 of section 86.253.

8. If a member dies prior to termination of employment as a police officer and actual retirement while participating in the DROP or before the member has received full withdrawal of the amount in the member's DROP account under the installment optional payment form, the remaining balance of the member's DROP account shall be payable to the member's surviving spouse; or, if the member is then unmarried, to the member's dependent children in equal shares; or, if none, to the member's dependent mother or father; or, if none, to the member's designated beneficiary or, if no such beneficiary is then living, to the member's estate. Payment shall be made **in a lump sum** within sixty days after [the retirement system is notified of the member's death] **receipt by the board of trustees of evidence and proof of the death of a member.** In addition, the member's mandatory contributions, if any, that were not already paid to the member pursuant to subsection 4 of section 86.253 shall be paid to the member's surviving spouse pursuant to section 86.288.

9. If a member has elected to participate in the DROP and during such participation period applies for and receives benefits for an accidental disability retirement allowance pursuant to the provisions of section 86.263, the member shall forfeit all rights, claims or interest in the member's DROP account and the member's benefits shall be calculated as if the member has continued in employment and had not elected to participate in the DROP. Any portion of a DROP account that has been forfeited as provided in this subsection shall be a general asset of the system.

10. A member's DROP account shall earn interest equal to the rate of return earned by the system's investment portfolio on a market value basis, including realized and unrealized gains and losses, net of investment expense, as certified by the system's actuary. As of the [first] **last** day of each **plan** year[,], beginning [with the second fiscal year of] **after DROP participation begins**, the member's DROP account balance, determined as of the [first] **last** day of [such] **the prior plan** year, shall be credited with interest at the investment rate earned by the assets of the retirement system for [the] **such prior plan** year. If distribution of the member's DROP account balance is [completed during the year] **made in a lump sum under subsection 4 or 8 of this**

section, interest for the plan year of distribution shall be credited[, based] on the [beginning] ending balance for the prior plan year at the investment rate earned on the assets of the retirement system for the prior plan year, in proportion to the part of the plan year preceding the date of [final distribution. No interest shall be credited on amounts, if any, added to the member's DROP account during the year in which the distribution of the account is completed] the member's termination of employment or death, whichever is earlier. If the member's DROP account is paid in equal monthly installments pursuant to subsection [5] 4 of this section, [any] interest during the installment period shall be credited as of the last day of each plan year ending after installment payment begins on the account balance as of the first or last day of the plan year, whichever is lower, at the investment rate earned by the assets of the system for the prior plan year. Interest for the year in which the final installment is paid shall be credited on the balance remaining after the final installment is paid, at the investment rate earned on the assets of the system for the prior plan year, in proportion to the part of the plan year preceding payment of the final installment. Any interest credited to the DROP account during the installment period shall be paid as soon as reasonably possible after the final monthly installment. No interest shall be credited on amounts, if any, added to the member's DROP account during the year in which the distribution of the account is completed.

11. The board of trustees shall not incur any liability individually or on behalf of other individuals for any act or omission, made in good faith in relation to the DROP or assets credited to DROP accounts established by this section. The provisions of the Internal Revenue Code and regulations promulgated thereunder shall supersede any provision of this section if there is any inconsistency with the Internal Revenue Code or regulation.

12. Upon the receipt by the board of trustees of evidence and proof that the death of a member resulted from an event occurring while the member was in the actual performance of duty, and if the member is participating in the DROP, the member's surviving spouse or, if the member is then unmarried, the member's unmarried dependent children, may elect within thirty days after the member's death to have the amount in the member's DROP account paid in the form of a monthly survivor annuity. Payment of the survivor annuity shall begin within sixty days after the election is received. Payment to the member's surviving spouse shall continue until the surviving spouse's death; payment to the member's unmarried dependent children shall be made while any child qualifies as an unmarried dependent child pursuant to section 86.280. The survivor annuity shall be the actuarial equivalent of the member's DROP account as of the date [payment begins] **of the member's death**. In no event shall the total amount paid pursuant to this subsection be less than the member's DROP account balance as of the date [payment begins] **of the member's death**.

86.255. ELIGIBLE ROLLOVER DISTRIBUTION PAYABLE, ELECTION TO PAY DIRECTLY TO PLAN — DEFINITIONS — WRITTEN EXPLANATION REQUIRED BY BOARD, WHEN — DISTRIBUTION MADE, WHEN. — 1. Notwithstanding any other provision of the plan established in sections 86.200 to 86.366, if an eligible rollover distribution becomes payable to a distributee, the distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any of the eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

2. For purposes of this section, the following terms mean:

(1) "Direct rollover", a payment by the board of trustees from the fund to the eligible retirement plan specified by the distributee;

(2) "Distributee", a member, a surviving spouse or a spouse;

(3) "Eligible retirement plan", an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution **or, effective for eligible rollover**

distributions made on or after January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan, and shall include, for eligible rollover distributions made on or after January 1, 2002, a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code;

(4) "Eligible rollover distribution", any distribution of all or any portion of a member's benefit, other than:

(a) A distribution that is one of a series of substantially equal periodic payments, made not less frequently than annually, for the life or life expectancy of the distributee or for the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(b) The portion of a distribution that is required under Section 401(a)(9) of the Internal Revenue Code; or

(c) [The] **Effective for distributions made on or after January 1, 2002**, a portion of [any] a distribution [that is not includable in] **shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including to separately account for the portion of such distribution which is includable in gross income and the portion that is not so includable.**

3. The board of trustees shall, at least thirty days, but not more than ninety days, before making an eligible rollover distribution, provide a written explanation to the distributee in accordance with the requirements of Section 402(f) of the Internal Revenue Code.

4. If the eligible rollover distribution is not subject to Sections 401(a) and 417 of the Internal Revenue Code, such eligible rollover distribution may be made less than thirty days after the distributee has received the notice described in subsection 3 of this section, provided that:

(1) The board of trustees clearly informs the distributee of the distributee's right to consider whether to elect a direct rollover, and if applicable, a particular distribution option, for at least thirty days after the distributee receives the notice; and

(2) The distributee, after receiving the notice, affirmatively elects a distribution.

86.256. ANNUAL BENEFIT NOT TO EXCEED CERTAIN AMOUNT — ANNUAL ADDITIONS NOT TO EXCEED CERTAIN AMOUNT — COMBINED PLAN LIMITATION NOT TO BE EXCEEDED — INCORPORATION BY REFERENCE OF INTERNAL REVENUE CODE. — 1. In no event shall a member's annual benefit paid under the plan established pursuant to sections 86.200 to 86.366 exceed the amount specified in Section 415(b)(1)(A) of the Internal Revenue Code, as adjusted for any applicable increases in the cost of living, as in effect on the last day of the plan year, including any increases after the member's termination of employment.

2. **Effective for limitation years beginning after December 31, 2001**, in no event shall the annual additions to the plan established pursuant to sections 86.200 to 86.366, on behalf of the member, including the member's own mandatory contributions, exceed the lesser of:

(1) [Twenty-five] **One hundred** percent of the member's compensation, as defined for purposes of Section 415(c)(3) of the Internal Revenue Code, **for the limitation year**; or

(2) [Thirty] **Forty** thousand dollars, as adjusted for increases in the cost of living **under Section 415(d) of the Internal Revenue Code.**

3. Effective for limitation years beginning prior to January 1, 2000, in no event shall the combined plan limitation of Section 415(e) of the Internal Revenue Code be exceeded; provided that, if necessary to avoid exceeding such limitation, the member's annual benefit under the plan established pursuant to sections 86.200 to 86.366 shall be reduced to the extent necessary to satisfy such limitations.

4. For purposes of this section, Section 415 of the Internal Revenue Code, including the special rules under Section 415(b) applicable to governmental plans and qualified participants [in] **employed by a police [and] or fire department [plans]**, is incorporated in this section by reference.

86.294. CONTRIBUTIONS TO BE ACCEPTED AFTER JANUARY 1, 2002, LIMITATIONS. —

1. Notwithstanding any other provision of the plan established in sections 86.200 to 86.366, and subject to the provisions of subsections 2, 3, and 4 of this section, effective January 1, 2002, the plan shall accept a member's rollover contribution or direct rollover of an eligible rollover distribution made on or after January 1, 2002, from a qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code, or an annuity contract described in Section 403(b) of the Internal Revenue Code, or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. The plan will also accept a member's rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includable in gross income.

2. The amount of such rollover contribution or direct rollover of an eligible rollover distribution shall not exceed the amount required to repay the member's accumulated contributions plus the applicable members' interest thereon from the date of withdrawal to the date of repayment in order to receive credit for such prior service in accordance with section 86.210, to the extent that Section 415 of the Internal Revenue Code does not apply to such repayment by reason of subsection (k)(3) thereof, or to purchase permissive service credit, as defined in Section 415(n)(3)(A) of the Internal Revenue Code, for the member under the plan in accordance with the provisions of section 105.691, RSMo.

3. Acceptance of any rollover contribution or direct rollover of eligible rollover distribution under this section shall be subject to the approval of the board of trustees and shall be made in accordance with procedures established by the board of trustees.

4. In no event shall the plan accept any rollover contribution or direct rollover distribution to the extent that such contribution or distribution consists of after-tax employee contributions which are not includable in gross income.

86.296. TRUSTEE TO TRUSTEE TRANSFERS TO BE ACCEPTED AFTER JANUARY 1, 2002. —

1. Notwithstanding any other provision of the plan established in sections 86.200 to 86.366, and subject to the provisions of subsections 2 and 3 of this section, effective January 1, 2002, the plan shall accept a direct trustee-to-trustee transfer on behalf of a member from an annuity contract described in Section 403(b) of the Internal Revenue Code or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision.

2. A trustee-to-trustee transfer may be accepted by the plan only if the transfer is used to repay the member's accumulated contributions plus the applicable members' interest thereon from the date of withdrawal to the date of repayment in order to receive credit for such prior service in accordance with section 86.210, to the extent that Section 415 of the Internal Revenue Code does not apply to such repayment by reason of subsection (k)(3) thereof, or to purchase permissive service credit, as defined in Section 415(n)(3)(A) of the

Internal Revenue Code, for the member under the plan in accordance with the provisions of section 105.691, RSMo.

3. Acceptance of any trustee-to-trustee transfer under this section shall be subject to the approval of the board of trustees and shall be made in accordance with procedures established by the board of trustees.

87.177. SERVICE RETIREMENT ALLOWANCE, ELIGIBILITY, APPLICATION, BENEFITS — SURVIVOR'S RIGHT TO SHARE OF BENEFITS — COST-OF-LIVING ALLOWANCE. — 1. Any firefighter who terminates employment with five or more years of service but less than twenty years may apply at age sixty-two for a service retirement allowance. Upon written application to the board of trustees the benefit payable shall be equal to two percent times years of service times the average final compensation, and the member shall also be repaid the total amount of the member's contribution, without interest.

2. The benefits provided in subsection 1 of this section shall be in lieu of any benefits pursuant to the provisions of section 87.240.

3. Any survivor of a firefighter retiring pursuant to the provisions of subsection 1 of this section shall be entitled to fifty percent of the retirement allowance of the retired member at his or her date of death.

4. Any surviving spouse of a firefighter who had five or more years of service but less than twenty years and who dies prior to application for retirement benefits payable pursuant to this section shall be entitled to fifty percent of the retirement allowance of the member at his or her date of death payable at the date the member would have reached age sixty-two, or to the immediate refund of the member's contribution plus interest. If no surviving spouse exists, a benefit shall be payable pursuant to subdivisions (2) and (3) of subsection 1 of section 87.220, or by the immediate refund of the member's contribution plus interest.

5. Any firefighter retiring pursuant to the provisions of this section shall be entitled to receive a cost-of-living allowance of five percent per year for a maximum of five years.

87.207. COST-OF-LIVING INCREASE, HOW DETERMINED. — The following allowances due under the provisions of sections 87.120 to [87.370] **87.371** of any member who retired from service shall be increased annually, as approved by the board of trustees beginning with the first increase in the October following his or her retirement and subsequent increases in each October thereafter, at the rates designated:

- (1) With a retirement service allowance or ordinary disability allowance:
 - (a) One and one-half percent per year, compounded each year, up to age sixty for those retiring with twenty to twenty-four years of service,
 - (b) Two and one-fourth percent per year, compounded each year, up to age sixty for those retiring with twenty-five to twenty-nine years of service,
 - (c) Three percent per year, compounded each year, up to age sixty for those retiring with thirty or more years of service,
 - (d) After age sixty, five percent per year for five years or until a total maximum increase of twenty-five percent is reached;
- (2) With an accidental disability allowance, three percent per year, compounded each year, up to age sixty, then five percent per year for five years [or until a total maximum increase of twenty-five percent is reached].

[Each increase, however, is subject to a determination by the board of trustees that the consumer price index (United States Average Index) as published by the United States Department of Labor shows an increase of not less than the approved rate during the latest twelve-month period for which the index is available at date of determination. If the increase is in excess of the approved rate for any year, the excess shall be accumulated as to any retired member and increases may be granted in subsequent years subject to the maximum allowed for each full year from October

following his retirement but not to exceed a total increase of twenty-five percent. If the board of trustees determines that the index has decreased for any year, the benefits of any retired member that have been increased shall be decreased but not below his initial benefit. No annual increase shall be made of less than one percent and no decrease of less than three percent except that any decrease shall be limited by the initial benefit.]

87.231. SURVIVING SPOUSE AS SPECIAL CONSULTANT TO THE BOARD, WHEN — COMPENSATION — EFFECT ON ELIGIBILITY FOR RETIREMENT BENEFITS. — 1. In lieu of any benefits payable pursuant to section 87.230, any surviving spouse who is receiving retirement benefits, upon application to the board of trustees of the retirement system, shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging, and other state matters, for the remainder of his or her life, and upon request of the board, give opinions, and be available to give opinions in writing, or orally, in response to such request, as may be required, and for such services shall be compensated monthly, in an amount, which, when added to any monthly retirement benefits being received, shall not exceed fifty percent of the deceased member's average final compensation or five hundred twenty-five dollars, whichever is greater.

2. This compensation shall be consolidated with any other retirement benefits payable to such surviving spouse, and shall be paid in the manner and from the same fund as his or her other retirement benefits under this chapter, and shall be treated in all aspects under the laws of this state as retirement benefits paid pursuant to this chapter.

3. The employment provided for by this section shall in no way affect any person's eligibility for retirement benefits under this chapter, or in any way have the effect of reducing retirement benefits, anything to the contrary notwithstanding.

87.235. PAYMENTS ON PROOF OF ACCIDENTAL DEATH IN SERVICE — BENEFICIARIES.

— **1. Effective May 1, 2002**, upon the receipt of evidence and proof that the death of a member was the result of an accident or exposure at any time or place, provided that at such time or place the member was in the actual performance of the member's duty and, in the case of an exposure, while in response to an emergency call, or was acting pursuant to orders, there shall be paid in lieu of all other benefits the following benefits:

(1) A retirement allowance to the widow during the person's widowhood of [fifty] **seventy percent of the [deceased member's average final compensation] pay then provided by law for the highest step in the range of salary for the next title or next rank above the member's range or title held at the time of the member's death**, plus ten percent of such compensation to or for the benefit of each unmarried dependent child of the deceased member, who is either under the age of eighteen, or who is totally and permanently mentally or physically disabled and incapacitated, regardless of age, but not in excess of a total of three children, including both classes, and paid as the board of trustees in its discretion directs;

(2) If no widow benefits are payable pursuant to subdivision (1), such total allowance as would have been paid had there been a widow shall be divided among the unmarried dependent children under the age of eighteen and such unmarried children, regardless of age, who are totally and permanently mentally or physically disabled and incapacitated, and paid to or for the benefit of such children as the board of trustees in its discretion shall direct;

(3) If there is no widow, or child under the age of eighteen years, or child, regardless of age, who is totally and permanently mentally or physically disabled and incapacitated, then an amount equal to the widow's benefit shall be paid to the member's dependent father or dependent mother, as the board of trustees shall direct, to continue until remarriage or death;

(4) Any benefit payable to, or for the benefit of, a child or children under the age of eighteen years pursuant to subdivisions (1) and (2) of this section shall be paid beyond the age of eighteen years through the age of twenty-five years in such cases where the child is a full-time student at a regularly accredited college, business school, nursing school, school for technical or vocational

training or university, but such benefit shall cease whenever the child ceases to be a student. A college or university shall be deemed to be regularly accredited which maintains membership in good standing in a national or regional accrediting agency recognized by any state college or university.

2. No benefits pursuant to this section shall be paid to a child over eighteen years of age who is totally and permanently mentally or physically disabled and incapacitated, if such child is a patient or ward in a public-supported institution.

3. Wherever any dependent child designated by the board of trustees to receive benefits pursuant to this section is in the care of the widow of the deceased member, the child's benefits may be paid to the widow for the child.

87.238. RETIRED FIREFIGHTERS TO ACT AS SPECIAL ADVISORS TO RETIREMENT SYSTEM, WHEN — COMPENSATION. — 1. In lieu of any benefit payable pursuant to section 87.237, any person who served as a firefighter and who is retired and receiving a retirement allowance of less than six hundred twenty-five dollars may act as a special advisor to the retirement system.

2. For the additional service as a special advisor, each retired person shall receive, in addition to the retirement allowance provided pursuant to this chapter, an additional amount, which amount, together with the retirement allowance he or she is receiving pursuant to other provisions of this chapter, shall equal, but not exceed, six hundred twenty-five dollars. Any retirement allowance paid to a retiree pursuant to this subsection shall be withdrawn from the firefighters' retirement and relief system fund and no moneys shall be withdrawn from the general revenue fund of any city not within a county.

104.050. YEARS OF SERVICE USED IN CALCULATING ANNUITY — NONCOMPENSATED ABSENCES FOR ILLNESS AND INJURY, EFFECT — WITHDRAWAL BEFORE ENTITLED TO DEFERRED ANNUITY, RELINQUISHES ALL RIGHTS — REINSTATEMENT OF FORFEITED SERVICE, WHEN. — 1. Years of service and twelfths of a year are to be used in calculating any annuity. Absences taken by an employee without compensation for sickness or injury of the employee of less than twelve months may be counted as continuous service. Absences for more than twelve months' continuous duration cancel all prior service credits unless the board of trustees grants special leave to the employee affected prior to the termination of a twelve-month absence. This subsection shall not apply to injury sustained while in the line of duty.

2. Any member who withdraws from service before he is entitled to deferred benefits under section 104.035 forfeits, waives, and relinquishes all accrued rights in the fund, including all accrued creditable service.

3. If a former employee has forfeited creditable service for any period he shall have the period of creditable service restored only upon the completion of one continuous year of service after he again becomes an employee.

104.110. DISABILITY BENEFITS, WHO ENTITLED, HOW CALCULATED — MEDICAL EXAMINATION REQUIRED, WHEN — PROOF OF APPLICATION FOR SOCIAL SECURITY BENEFITS — DEATH BENEFIT, NOT PAYABLE, WHEN — BOARD TO ESTABLISH DEFINITIONS — ANNUITY BENEFITS, ACCRUAL, ELECTION — DEATH BENEFIT, ELIGIBILITY, WHEN. — 1. Any employee, regardless of the length of time of creditable service, who is affirmatively found by the board to be wholly incapable of performing the duties of the employee's or any other position in the employee's department for which the employee is suited, shall be entitled to receive disability benefits. The disability benefit provided by this subsection shall equal one and six-tenths percent of the employee's average compensation multiplied by the number of years of creditable service of the member.

2. Any uniformed member of the highway patrol, highway patrol employee or department of transportation employee, regardless of the length of time of creditable service, who is found

by the board to be disabled as a result of injuries incurred in the performance of the employee's duties, shall be entitled to receive an initial disability benefit in an amount equal to seventy percent of the compensation that the employee was receiving on the date preceding the date of disability; provided, however, that the amount of the disability benefit, plus any primary Social Security disability benefits received by such member shall not exceed ninety percent of the monthly compensation such member was receiving on the date preceding the date of disability.

3. Any disability benefits payable pursuant to this section shall be decreased by any amount paid to such member for periodic disability benefits by reason of the workers' compensation laws of this state. After termination of payment under workers' compensation, however, disability benefits shall be paid in the amount required by subsections 1, 2, [8 and 10] **7, and 9** of this section.

4. The board of trustees may require a medical examination of a disabled member at any time by a designated physician, and benefits shall be discontinued if the board finds that such member is able to perform the duties of the member's former position or if such member refuses to submit to a medical examination. Any employee who applies for disability benefits provided pursuant to this section shall provide medical certification acceptable to the board which shall include the date the disability commenced and the expected duration of the disability.

5. Any employee who applies for disability benefits pursuant to subsections 2 and [8] **7** of this section shall provide proof of application for Social Security disability benefits. If Social Security disability benefits are denied, the employee shall also provide proof that the employee has requested reconsideration, and upon denial of the reconsideration, that an appeal process is prosecuted.

6. The disability benefits provided in this section shall not be paid to any member who retains or regains earning capacity as determined by the board. If a member who has been receiving disability benefits again becomes an employee, the member's disability benefits shall be discontinued.

7. [Upon the completion of six months continuous service after reemployment, the member shall have the member's prior period of creditable service restored. Any subsequent determination of benefits due the member or the member's survivors shall be based on the sum of the member's creditable service accrued to the date the member's disability benefits commenced and the period of creditable service after the member's return to employment. Should the member again become disabled, retire, or terminate employment within the six-month period after the member's return to work, any benefits to which the member becomes entitled shall be based on the member's service and compensation to the date disability benefits originally began. There shall be no death benefits payable pursuant to section 104.090 or pursuant to section 104.140 if the employee dies within six months after the member's return to employment from disability. The provision of this subsection shall not apply to a person receiving disability benefits pursuant to subsection 2 of this section.

8.] The board shall also provide or contract for long-term disability benefits for those members whose disability exists or is diagnosed as being of such nature as to exist for more than one year. The benefits provided or contracted for pursuant to this subsection shall be in lieu of any other benefit provided in this section. The eligibility requirements, benefit period and amount of the disability benefits provided pursuant to this subsection shall be established by the board.

[9.] **8.** Definitions of disability and other rules and procedures necessary for administration of the disability benefits provided pursuant to this section shall be established by the board.

[10.] **9.** Any member receiving disability benefits pursuant to subsections 1 and 2 of this section shall receive the same cost-of-living increases as granted to retired members pursuant to section 104.130.

[11.] **10.** The state highways and transportation commission shall contribute the same amount as provided for all state employees for any person receiving disability benefits pursuant to subsection 2 of this section for medical insurance provided pursuant to section 104.270.

[12.] **11.** Any member who qualified for disability benefits pursuant to subsection 2 or subsection [8] 7 of this section shall continue to accrue normal annuity benefits based on the member's rate of pay immediately prior to the date the member became disabled in accordance with sections 104.090 and 104.615 as in effect on the earlier of the date the member reaches normal retirement age or the date normal annuity payments commence.

[13.] **12.** A member who continues to be disabled as provided in subsection 2 or subsection [8] 7 of this section shall continue to accrue creditable service until the member reaches normal retirement age. The maximum benefits period for benefits pursuant to subsections 2 and [8] 7 of this section shall be established by the board. A member who is eligible to retire and does retire while receiving disability benefits pursuant to subsections 2 and [8] 7 of this section shall receive the greater of the normal annuity or the minimum annuity determined pursuant to sections 104.090 and 104.615, as if the member had continued in the active employ of the employer until the member's normal retirement age and the member's compensation for such period had been the member's rate of pay immediately preceding the date the member became disabled.

[14.] **13.** Any member who was receiving disability benefits from the board prior to August 28, 1997, or any member who has submitted an application for disability benefits before August 28, 1997, and would have been eligible to receive benefits pursuant to the eligibility requirements which were applicable at the time of application shall be eligible to receive or shall continue to receive benefits in accordance with such prior eligibility requirements until the member again becomes an employee.

[15.] **14.** Any member receiving disability benefits pursuant to **subsection 1**, subsection 2 or subsection [8] 7 of this section shall be eligible to receive death benefits pursuant to the provisions of [section 104.095 or] subsection [2] 1 of section 104.140. The death benefits provided pursuant to this subsection shall be in lieu of the death benefits available to the member pursuant to subsection [1] 2 of section 104.140.

15. The board is authorized to contract for the benefits provided pursuant to subsections 1 and 2 of this section.

104.140. DEATH PRIOR TO RETIREMENT, BENEFITS. — 1. **(1)** If a member who has five or more years of creditable service dies before retirement, [his] **the member's** surviving spouse, [if named as his beneficiary and married to the deceased member on the date of the member's death, or his surviving unemancipated children under the age of twenty-one, if named as beneficiary or beneficiaries, shall receive a total monthly payment equal to fifty percent of the deceased member's accrued monthly benefit calculated as if the member were of normal retirement age as of his date of death. If the surviving spouse dies leaving any unemancipated children under the age of twenty-one years, the payment shall continue until the children become emancipated or reach twenty-one years of age] **to whom the member was married on the date of the member's death, if any, shall receive the reduced survivorship benefits provided in option 1 of subsection 3 of section 104.090 calculated as if the member were of normal retirement age and had retired as of the date of the member's death and had elected option 1;**

(2) If there is no eligible surviving spouse, or when a spouse's annuity has ceased to be payable, the member's eligible surviving children under twenty-one years of age shall receive monthly, in equal shares, an amount equal to eighty percent of the member's accrued annuity calculated as if the member were of normal retirement age and retired as of the date of death. Benefits otherwise payable to a child under eighteen years of age shall be payable to the surviving parent as natural guardian of such child if such parent has custody or assumes custody of such minor child, or to the legal guardian of such child, until such child attains age eighteen, and thereafter, the benefit may be paid to the child until age twenty-one; provided, the age twenty-one maximum shall be extended for any child who has been found totally incapacitated by a court of competent jurisdiction;

(3) No benefit is payable pursuant to this section if no eligible surviving spouse or children under twenty-one years of age survive the member. Benefits cease pursuant to this section when there is no eligible surviving beneficiary through either death of the eligible surviving spouse or through either death or the attainment of twenty-one years of age by the eligible surviving children. If the member's surviving children are receiving equal shares of the benefit described in subdivision (2) of this subsection, and one or more of such children become ineligible by reason of death or the attainment of twenty-one years of age, the benefit shall be reallocated so that the remaining eligible children receive equal shares of the total benefit as described in subdivision (2) of this subsection.

2. Effective January 1, 1985, if an employee who has three or more, but less than [ten] five years of creditable service dies before retirement, the surviving spouse of the deceased employee, if [named as beneficiary and] married to the deceased employee on the date of the employee's death, or the deceased employee's surviving [unemancipated] **eligible** children under the age of twenty-one, [if named as beneficiary or beneficiaries,] shall receive a total monthly payment equal to twenty-five percent of the deceased employee's accrued monthly benefit calculated as if the employee were of normal retirement age as of the date of death. [Such benefit shall be increased by five-twelfths of one percent for each month of service in excess of five years.] If the surviving spouse dies leaving any [unemancipated] **eligible** children under the age of twenty-one years, the payment shall continue until the children [become emancipated or] reach twenty-one years of age. If there is no surviving spouse eligible for benefits under this subsection, but there are any [unemancipated] children of the deceased employee eligible for payments, the payments shall continue until the children [become emancipated or] reach twenty-one years of age. Any benefits payable to [unemancipated] **eligible** children under twenty-one years of age shall be made on a pro rata basis among the surviving [unemancipated] children under twenty-one years of age.

3. For the purpose of computing the amount of a benefit payable pursuant to this section, if the board finds that the death was a natural and proximate result of a personal injury or disease arising out of and in the course of the member's actual performance of duty as an employee, then the minimum benefit to such member's surviving spouse or, if no surviving spouse benefits are payable, the minimum benefit that shall be divided among and paid to such member's surviving [unemancipated] **eligible** children under the age of twenty-one shall be fifty percent of the member's final average compensation. The service requirements of subsections 1 and 2 of this section shall not apply to any benefit payable pursuant to this subsection.

104.250. LAW CREATES VESTED RIGHTS — BENEFITS EXEMPT FROM TAXES AND EXECUTIONS. — 1. All payroll deductions and deferred compensation provided for under sections 104.010 to 104.270 are hereby made obligations of the state of Missouri. No alteration, amendment, or repeal of sections 104.010 to 104.270 shall affect the then existing rights of members and beneficiaries, but shall be effective only as to rights which would otherwise accrue under sections 104.010 to 104.270 as a result of services rendered by an employee after such alteration, amendment, or repeal.

2. Any annuity, benefits, funds, property, or rights created by, or accruing to, any person under the provisions of sections 104.010 to 104.270 are hereby made and declared exempt from any tax of the state of Missouri or any political subdivision or taxing body thereof, and shall not be subject to execution, garnishment, attachment, writ of sequestration, or any other process or claim whatsoever, and shall be unassignable **except that any payment from the retirement system shall be subject to the collection of child support or spousal maintenance.**

104.254. SPOUSES OF DECEASED RETIRED MEMBERS APPOINTED AS SPECIAL CONSULTANTS, WHEN — DUTIES — COMPENSATION — NOT TO AFFECT OTHER BENEFITS. — 1. Any spouse of a deceased member of the patrol who retired prior to October 1, 1984, shall, upon application, be made, constituted, appointed, and employed by the board as a special consultant

on the problems of retirement, aging, and other matters relating to spouses of deceased members of the patrol, and upon the request of the board, shall give opinions and be available to give opinions, in writing or orally, in response to such requests of the board. As compensation for the services required by this section, spouses of deceased members of the patrol shall be compensated monthly in an amount based on the monthly amount which the member would have been receiving had the selection of options been made on the date of the spouse's application to be made a consultant under the provisions of this section and the member had elected the option of his choice pursuant to the provisions of subsection 3 of section 104.090, or an amount which, when added to any survivorship benefits received initially upon the death of the member of the patrol, shall be equal to two hundred dollars per month or fifty percent or the percentage so selected by the member at retirement of the monthly benefit amount which the member was receiving immediately prior to his death, whichever amount is greater, plus an annual monthly increase in an amount computed by multiplying the spouse's current monthly benefit amount by eighty percent of the increase in the consumer price index calculated in the manner specified in section 104.415. The annual increase provided by this subsection shall not exceed five percent nor be less than four percent, and the total increase in compensation granted as annual increases in accordance with this subsection shall not exceed [fifty] **sixty-five** percent of the total compensation granted each spouse by this section on August 13, 1986.

2. The employment provided for by this section shall in no way affect any person's eligibility for retirement or survivor benefits under this chapter, or in any way have the effect of reducing any retirement or survivor benefits, anything to the contrary notwithstanding.

104.270. INSURANCE BENEFITS TO BE FURNISHED, HOW — STATE CONTRIBUTION, AMOUNT — CONTRACTS FOR, HOW LET. — The state highways and transportation commission may provide for [insurance] benefits to cover medical expenses and death for members of the [state] **closed and year 2000 plans of the highways and** transportation [department] employees' and highway patrol retirement system. Any plan may provide medical benefits for dependents of members and for [retired members] **retirees of the closed and year 2000 plans and for persons entitled to deferred annuities in the closed and year 2000 plans and their dependents.** Death benefits shall be comparable to those provided for in section 104.517. Contributions by the state highways and transportation commission to provide the [insurance] benefits shall be on the same basis as provided for other state employees under the provisions of section 104.515. Except as otherwise provided by law, the cost of benefits for dependents of members and for [retired members] **retirees** and their dependents shall be paid by the members **or retirees.** The [state highways and transportation] commission may contract **with other persons or entities including but not limited to third-party administrators, health network providers, and health maintenance organizations** for all, or any part of, the [insurance] benefits provided for in this section. [If the state highways and transportation commission contracts for insurance benefits, or for administration of the insurance plan, such contracts shall be entered into on the basis of competitive bids.] **The commission may require reimbursement of any medical claims paid by the commission's medical plan for which there was third-party liability.**

104.335. VESTING SERVICE — MEMBERS WHO ARE ENTITLED TO ANNUITIES — REQUIREMENTS, AMOUNTS — TERMINATED VESTED MEMBER, JUDGE, ADMINISTRATIVE LAW JUDGE OR LEGAL ADVISOR, ELECTION TO PAY PRESENT VALUE OF ANNUITY, ELIGIBILITY, PURCHASE OF PRIOR SERVICE CREDIT. — 1. Any member whose employment terminated prior to September 1, 1972, and (a) who had served at least three full biennial assemblies as a member of the general assembly, or (b) who was other than a member of the general assembly and who had fifteen or more years of vesting service shall be entitled to a deferred normal annuity based on the member's creditable service, average compensation and the law in effect at the time the member's employment was terminated.

2. (1) Any member whose employment terminated on or after September 1, 1972, and prior to July 1, 1981, and (a) who had served at least three full biennial assemblies as a member of the general assembly, or (b) who was other than a member of the general assembly and who had fifteen or more years of vesting service or who had ten or more years of vesting service and was at least thirty-five years of age at the date of termination of employment shall be entitled to a deferred normal annuity based on the member's creditable service, average compensation and the law in effect at the time the member's employment was terminated.

(2) Any member whose employment terminated on or after July 1, 1981, and (a) who had served at least three full biennial assemblies as a member of the general assembly, or (b) who was other than a member of the general assembly and who had ten or more years of vesting service at the date of termination of employment shall be entitled to a deferred normal annuity based on the member's creditable service, average compensation and the law in effect at the time the member's employment was terminated.

(3) Any member whose employment terminated on or after September 1, 1972, and who had four or more years of vesting service as governor, lieutenant governor, secretary of state, auditor, treasurer, or attorney general of this state shall be entitled to a deferred normal annuity based on the member's creditable service, average compensation and the law in effect at the time the member's employment was terminated.

(4) Any member whose employment terminated on or after September 28, 1985, and who (a) had served less than three full biennial assemblies as a member of the general assembly, and (b) has less than ten years of vesting service as an employee other than a member of the general assembly shall be entitled to two years of vesting service for each full biennial assembly in which the member served plus an additional amount of vesting service for each partial biennial assembly served, which amount shall be equal to the pro rata portion of the biennial assembly so served. The total amount of vesting service provided for in this subdivision shall be used to calculate the deferred normal annuity or deferred partial annuity to which such member is entitled based on the member's creditable service, which includes all service designated as vesting service under this subdivision, the member's average compensation, and the law in effect at the time the member's employment was terminated.

3. Any member whose employment terminated on or after October 1, 1984, but before September 28, 1992, and who was other than a member of the general assembly and who has five or more years of vesting service as an employee at the date of termination of employment shall be entitled to a deferred partial annuity based on the member's creditable service, average compensation, and the law in effect at the time the member's employment was terminated, in the following amounts:

(1) An employee with at least five years of vesting service, but less than six years, is entitled to fifty percent of the amount payable as a deferred normal annuity;

(2) An employee with six years of vesting service, but less than seven years, is entitled to sixty percent of the amount payable as a deferred normal annuity;

(3) An employee with seven years of vesting service, but less than eight years, is entitled to seventy percent of the amount payable as a deferred normal annuity;

(4) An employee with eight years of vesting service, but less than nine years, is entitled to eighty percent of the amount payable as a deferred normal annuity;

(5) An employee with nine years of vesting service, but less than ten years, is entitled to ninety percent of the amount payable as a deferred normal annuity.

4. Any member whose employment terminated on or after September 28, 1992, and who was other than a member of the general assembly and who has five or more years of vesting service as an employee at the date of termination of employment shall be entitled to a deferred normal annuity based on the member's creditable service, average compensation, and the law in effect at the time the member's employment was terminated.

5. Any member who is entitled to a deferred normal annuity as provided in subsection 1, 2, 3, or 4 of this section and who reenters the service of a department and again becomes a

member of the system shall have the member's prior period of vesting service combined with the member's current membership service, so that any benefits that may become payable under this system by reason of the member's retirement or subsequent withdrawal will recognize such prior period of vesting service.

6. (1) A vested member, an administrative law judge or legal advisor as defined in section 287.812, RSMo, or a judge as defined in section 476.515, RSMo, who has terminated all employment with the state of Missouri for a period of six months or longer, may make a one-time election for the system to pay the present value of a deferred annuity or a benefit as defined in section 287.812, RSMo, or section 476.515, RSMo, if the amount of such terminated member's or person's creditable service is less than ten years, and if such terminated member or person is not within five years of eligibility for receiving an annuity or benefit. Any such member, administrative law judge, legal advisor or judge who terminates employment on or after August 28, 1997, shall be eligible for the one-time election provided for in this subsection only if the present value of the deferred annuity does not exceed ten thousand dollars. The present value shall be actuarially determined by the system. Except as provided in subdivision (2) of this subsection, any payment so made shall be a complete discharge of the existing liability of the system with respect to such terminated member or person.

(2) Upon subsequent employment in a position covered under a system administered by the Missouri state employees' retirement system, the employee, administrative law judge or judge may elect, within one year of such employment, to purchase creditable service equal to the amount of creditable service surrendered due to a payment as specified in this subsection. The cost of such purchase shall be actuarially determined by the system, and shall be paid over a period of not longer than two years from the date of election, with interest on the unpaid balance.

(3) Persons described in subdivision (1) of this subsection who terminate employment on or after September 1, 2002, shall no longer be eligible to make the election described in subdivision (1) of this subsection.

7. Any individual, covered by a retirement plan identified in chapter 104, chapter 287 or chapter 476, RSMo, who terminated employment prior to August 28, 1993, shall, upon application to the board of trustees of the Missouri state employees' retirement system, be made, constituted and appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters for the remainder of the person's life. Upon request of the board or the court from which the person retired, the consultant shall give opinions or be available to give opinions in writing or orally in response to such requests. As compensation for such services, the consultant shall be eligible to purchase or transfer, prior to retirement, creditable service as set forth in section 105.691, RSMo.

104.344. MEMBER ENTITLED TO PURCHASE PRIOR CREDITABLE SERVICE FOR NONFEDERAL FULL-TIME PUBLIC EMPLOYMENT OR CONTRACTUAL SERVICES — METHOD, PERIOD, LIMITATION. — Notwithstanding any other law to the contrary, any person who is actively employed by the state of Missouri in a position covered by a retirement plan administered by the Missouri state employees' retirement system and who had nonfederal full-time public employment in the state of Missouri or who had provided full-time services for compensation to the state of Missouri under a contract, and who by virtue of such employment was a member of a retirement system or other employer-sponsored retirement plan other than the Missouri state employees' retirement system but is not vested in such other retirement system or plan, or was not a member of any retirement system or plan, may elect, prior to retirement, to purchase [up to four years of] **all of the member's** creditable prior service **but not to exceed four years** for such service in any plan administered by the Missouri state employees' retirement system in which the person is receiving service credit for active employment or is eligible for a deferred annuity. The purchase shall be effected by the person paying to the Missouri state employees' retirement system an amount equal to what would have been contributed by the state in his or her behalf had the person been a member for the period for which he or she is electing

to purchase credit and had the person's compensation during such period been the same as the annual salary rate at which the person was initially employed in a position covered by a plan administered by the Missouri state employees' retirement system, with the calculations based on the contribution rate in effect on the date of his or her employment under the provisions of the Missouri state employees' retirement system with simple interest calculated from the date of employment from which the person could first receive creditable service from the Missouri state employees' retirement system to the date of election to purchase such service. The payment shall be made over a period of not longer than two years, with simple interest on the unpaid balance. In no event shall any person receive credit or benefits under any other retirement plan as defined pursuant to section 105.691, RSMo, for creditable service purchased pursuant to the provisions of this section. The contribution rate for any judge who elects to purchase service for a period prior to July 1, 1998, shall be equal to a contribution rate which would be used if the judicial system were funded on an actuarial basis prior to that date.

104.350. WITHDRAWAL FROM SERVICE, WHEN, REENTRY AFTER WITHDRAWAL, HOW MADE — FORFEITURE AND REINSTATEMENT OF CREDITABLE SERVICE, WHEN. — 1. Upon withdrawal from service, any member who is not entitled to a normal annuity, deferred normal annuity or disability benefits pursuant to the provisions of this chapter shall forfeit all rights in the fund, including the member's accrued creditable service as of the date of the member's withdrawal.

2. A former employee who is employed on or after August 28, [2000] **2002**, who has forfeited service shall have the forfeited period of service restored **after receiving creditable service continuously for one year**.

104.374. STATE EMPLOYEE'S NORMAL ANNUITY, COMPUTATION — NONCOMPENSATED ABSENCES COUNTED AS MEMBERSHIP SERVICE, WHEN — EMPLOYEES AND GENERAL ASSEMBLY MEMBERS CONTINUING TO SERVE, COST-OF-LIVING INCREASES ON RETIREMENT OR DEATH. — 1. The normal annuity of a member, other than a member of the general assembly or a member who served in an elective state office, shall be an amount equal to one and six-tenths percent of the average compensation of the member multiplied by the number of years of creditable service of the member. Years of membership service and twelfths of a year are to be used in calculating any annuity. Absences **taken by an employee without compensation** for sickness and injury **of the employee** of less than twelve months **or for leave taken by an employee without compensation pursuant to the provisions of the Family and Medical Leave Act of 1993** shall be counted as years of [membership] **creditable** service.

2. In addition to the amount determined pursuant to subsection 1 of this section, the normal annuity of a uniformed member of the water patrol shall be increased by thirty-three and one-third percent of the benefit.

3. Employees who are fully vested at the age of sixty-five years and who continue to be employed by an agency covered under the system or members of the general assembly who serve in the general assembly after the age of sixty-five years shall have added to their normal annuity when they retire or die an amount equal to the total of all annual cost-of-living increases that the retired members of the system received during the years between when the employee or member of the general assembly reached sixty-five years of age and the year that the employee or member of the general assembly terminated employment or died. In no event shall the total increase in compensation granted under this subsection and subsection 2 of section 104.612 exceed sixty-five percent of the person's normal annuity calculated at the time of retirement or death.

104.380. RETIRED MEMBERS ELECTED TO STATE OFFICE, EFFECT OF — REEMPLOYMENT OF RETIRED MEMBERS, EFFECT OF. — If a retired member is elected to any state office or is appointed to any state office or is employed by a department [and works more

than one thousand hours per year regardless of the number of positions held on or after the first day of employment, the retired member shall not receive an annuity or additional creditable service for any month or part of a month for which the retired member is so employed. The system shall recover any benefit payments received by the retiree during any year that the retiree works more than one thousand hours pursuant to section 104.490. The term "year" as used in this section shall mean the twelve-month period beginning on the annuity starting date and each subsequent year thereafter. The provisions of this section shall apply to all retired members employed on or after September 1, 2001, regardless of when the retired member was first employed. Any person who is an employee on or after August 28, 2001, retires and is subsequently employed in a position covered by the highways and transportation employees' and highway patrol retirement system shall not be eligible to receive retirement benefits or additional creditable service from the system.] **in a position normally requiring the performance by the person of duties during not less than one thousand hours per year, the member shall not receive an annuity for any month or part of a month for which the member serves as an officer or employee, but the member shall be considered to be a new employee with no previous creditable service and must accrue creditable service in order to receive any additional annuity. Any retired member who again becomes an employee and who accrues additional creditable service and later retires shall receive an additional amount of monthly annuity calculated to include only the creditable service and the average compensation earned by the member since such employment or creditable service earned as a member of the general assembly. Years of membership service and twelfths of a year are to be used in calculating any additional annuity except for creditable service earned as a member of the general assembly, and such additional annuity shall be based on the type of service accrued. In either event, the original annuity and the additional annuity, if any, shall be paid commencing with the end of the first month after the month during which the member's term of office has been completed, or the member's employment terminated. If a retired member is employed by a department in a position that does not normally require the person to perform duties during at least one thousand hours per year, the member shall not be considered an employee as defined pursuant to section 104.010. A retired member who becomes reemployed as an employee on or after August 28, 2001, in a position covered by the highways and transportation employees' and highway patrol retirement system shall not be eligible to receive retirement benefits or additional creditable service from the state employees' retirement system.**

104.400. NORMAL RETIREMENT AGE — EARLY RETIREMENT REQUIREMENTS — ANNUITY, HOW COMPUTED. — 1. Any member **who terminates employment** may retire with a normal annuity upon obtaining normal retirement age.

2. Any member after attaining fifty-five years of age who has at least ten years of vesting service may retire. In such case, the member, except uniformed members of the water patrol, shall receive an annuity in an amount which is the actuarial reduction approved by the board of the normal annuity the member would have received commencing at the earliest date on which the member is entitled to an unreduced benefit based on the member's creditable service at the date of the member's termination of employment.

104.436. FINANCING PATTERN FOR CONTRIBUTION DETERMINATIONS — COMMISSIONER OF ADMINISTRATION TO CERTIFY PAYMENT. — 1. [Beginning January 1, 1991, at least ninety days before each regular session of the general assembly, the board shall certify to the division of budget an actuarially determined estimate of the amount which will be necessary during the next biennial or appropriation period to pay all liabilities, including costs of administration, which shall exist or accrue under sections 104.010 and 104.320 to 104.800 during such period. The estimate shall be computed as a level percentage of payroll compensation to cover the normal cost and to amortize the accrued liability over a period not to

exceed forty years.] The board intends to follow a financing pattern which computes and requires contribution amounts which, expressed as percents of active member payroll, will remain approximately level from year to year and from one generation of citizens to the next generation. Such contribution determinations require regular actuarial valuations, which shall be made by the board's actuary, using assumptions and methods adopted by the board after consulting with its actuary. The entry age normal cost valuation method shall be used in determining normal cost, and contributions for unfunded accrued liabilities shall be determined using level percent-of-payroll amortization.

2. At least ninety days before each regular session of the general assembly, the board shall certify to the division of budget the contribution rate necessary to cover the liabilities of the plan administered by the system, including costs of administration, expected to accrue during the next appropriation period. The commissioner of administration shall request appropriation of the amount calculated [under] pursuant to the provisions of this subsection [1 of this section]. Following each pay period, the commissioner of administration [monthly] shall requisition and certify the payment to the executive director of the Missouri state employees' retirement system. The executive director shall promptly deposit the amounts certified to the credit of the Missouri state employees' retirement fund.

3. The employers of members of the system who are not paid out of funds that have been deposited in the state treasury shall remit promptly to the executive director an amount equal to the amount which the state would have paid if those members had been paid entirely from state funds. The executive director shall promptly deposit the amounts certified to the credit of the Missouri state employees' retirement system fund.

4. These amounts are funds of the system, and shall not be commingled with any funds in the state treasury.

104.438. BENEFIT FUNDS, PAY PERIOD CERTIFICATION OF AMOUNT REQUIRED — TREASURER TO TRANSFER AMOUNT TO FUND. — The commissioner of administration at the end of each [month] pay period shall certify to the state treasurer the amount required to be paid on account of officers and employees of each department, division, agency or unit of government whose services are covered by the Missouri state employees' retirement system. Thereupon the state treasurer shall immediately transfer such amounts from the proper funds to the credit of the fund for the Missouri state employees' retirement system.

104.515. INSURANCE AND DISABILITY BENEFITS TO BE KEPT IN SEPARATE ACCOUNTS — STATE'S CONTRIBUTION, AMOUNT, CONTRIBUTION TO BE MADE FROM HIGHWAY FUNDS FOR CERTAIN EMPLOYEES, WHEN — EMPLOYEES AND FAMILIES, WHO ARE COVERED FOR MEDICAL INSURANCE — PREMIUM COLLECTION FOR AMOUNT NOT COVERED BY STATE — SPECIAL CONSULTANTS, DUTIES, COMPENSATION, BENEFITS. — 1. Separate accounts for medical, life insurance and disability benefits provided pursuant to sections 104.517 and 104.518 shall be established as part of the fund. The funds, property and return on investments of the separate account shall not be commingled with any other funds, property and investment return of the system. All benefits and premiums are paid solely from the separate account for medical, life insurance and disability benefits provided pursuant to this section.

2. The state shall contribute an amount as appropriated by law and approved by the governor per month for medical benefits, life insurance and long-term disability benefits as provided pursuant to this section and sections 104.517 and 104.518. Such amounts shall include the cost of providing life insurance benefits for each active employee who is a member of the Missouri state employees' retirement system, a member of the public school retirement system and who is employed by a state agency other than an institution of higher learning, a member of the retirement system established by sections 287.812 to 287.855, RSMo, the judicial retirement system, each legislator and official holding an elective state office, members not on payroll status who are receiving workers' compensation benefits, and if the state highways and transportation

commission so elects, those employees who are members of the state transportation department employees' and highway patrol retirement system; if the state highways and transportation commission so elects to join the plan, the state shall contribute an amount as appropriated by law for medical benefits for those employees who are members of the transportation department employees' and highway patrol retirement system; an additional amount equal to the amount required, based on competitive bidding or determined actuarially, to fund the retired members' death benefit or life insurance benefit, or both, provided in subsection 4 of this section and the disability benefits provided in section 104.518. This amount shall be reported as a separate item in the monthly certification of required contributions which the commissioner of administration submits to the state treasurer and shall be deposited to the separate account for medical, life insurance and disability benefits. All contributions made on behalf of members of the state transportation department employees' and highway patrol retirement system shall be made from highway funds. If the highways and transportation commission so elects, the spouses and unemancipated children under twenty-three years of age of employees who are members of the state transportation department employees' and highway patrol retirement system shall be able to participate in the program of insurance benefits to cover medical expenses pursuant to the provisions of subsection 3 of this section.

3. The board shall determine the premium amounts required for participating employees. The premium amounts shall be the amount, which, together with the state's contribution, is required to fund the benefits provided, taking into account necessary actuarial reserves. Separate premiums shall be established for employees' benefits and a separate premium or schedule of premiums shall be established for benefits for spouses and unemancipated children under twenty-three years of age of participating employees. The employee's premiums for spouse and children benefits shall be established to cover that portion of the cost of such benefits which is not paid for by contributions by the state. All such premium amounts shall be paid to the board of trustees at the time that each employee's wages or salary would normally be paid. The premium amounts so remitted will be placed in the separate account for medical, life insurance and disability benefits. In lieu of the availability of premium deductions, the board may establish alternative methods for the collection of premium amounts.

4. Each special consultant eligible for life benefits employed by a board of trustees of a retirement system as provided in section 104.610 who is a member of the Missouri state life insurance plan or Missouri state transportation department and Missouri state highway patrol life insurance plan shall, in addition to duties prescribed in section 104.610 or any other law, and upon request of the board of trustees, give the board, orally or in writing, a short detailed statement on life insurance and death benefit problems affecting retirees. As compensation for the extra duty imposed by this subsection, any special consultant as defined above, other than a special consultant entitled to a deferred normal annuity pursuant to section 104.035 or 104.335, who retires on or after September 28, 1985, shall receive as a part of compensation for these extra duties, a death benefit of five thousand dollars, **and any special consultant who terminates employment on or after August 28, 1999, after reaching normal or early retirement age and becomes a retiree within sixty days of such termination shall receive five thousand dollars of life insurance coverage.** In addition, each special consultant who is a member of the transportation department employees' and highway patrol retirement system medical insurance plan shall also provide the board, upon request of the board, orally or in writing, a short detailed statement on physical, medical and health problems affecting retirees. As compensation for this extra duty, each special consultant as defined above shall receive, in addition to all other compensation provided by law, nine dollars, or an amount equivalent to that provided to other special consultants pursuant to the provisions of section 103.115, RSMo. In addition, any special consultant as defined in section 287.820, RSMo, or section 476.601, RSMo, who terminates employment and immediately retires on or after August 28, 1995, shall receive as a part of compensation for these duties, a death benefit of five thousand dollars **and any special consultant who terminates employment on or after August 28, 1999, after reaching**

the age of eligibility to receive retirement benefits and becomes a retiree within sixty days of such termination shall receive five thousand dollars of life insurance coverage.

5. Any former employee who is receiving disability income benefits from the Missouri state employees' retirement system or the transportation department employees' and highway patrol retirement system shall, upon application with the board of trustees of the Missouri consolidated health care plan or the transportation department employees and highway patrol medical plan, be made, constituted, appointed and employed by the respective board as a special consultant on the problems of the health of disability income recipients and, upon request of the board of trustees of each medical plan, give the board, orally or in writing, a short detailed statement of physical, medical and health problems affecting disability income recipients. As compensation for the extra duty imposed by this subsection, each such special consultant as defined in this subsection may receive, in addition to all other compensation provided by law, an amount contributed toward medical benefits coverage provided by the Missouri consolidated health care plan or the transportation employees and highway patrol medical plan pursuant to appropriations.

104.540. LAW CREATES VESTED RIGHTS — CERTAIN CONTRIBUTIONS MAY BE WITHHELD FROM BENEFITS AND PAID OVER. — 1. All premium payments and deferred compensation provided for under sections 104.320 to 104.540 are hereby made obligations of the state of Missouri. No alteration, amendment, or repeal of sections 104.320 to 104.540 shall affect the then existing rights of members and beneficiaries, but shall be effective only as to rights which would otherwise accrue hereunder as a result of services rendered by an employee after such alteration, amendment, or repeal.

2. Any annuity, benefits, funds, property, or rights created by, or accruing or paid to, any person under the provisions of sections 104.320 to 104.540 shall not be subject to execution, garnishment, attachment, writ of sequestration, or any other process or claim whatsoever, and shall be unassignable, except with regard to the collection of child support or maintenance, **and except that a beneficiary may assign life insurance proceeds.** Any retired member of the system may request the executive director of the system, in writing, to withhold and pay on his behalf to the proper person, from each of his monthly retirement benefit payments, if the payment is large enough, the contribution due from the retired member to any group providing prepaid hospital care and any group providing prepaid medical and surgical care and any group providing life insurance when such group is composed entirely of members of the system.

3. The executive director of the system shall, when requested in writing by a retired member, withhold and pay over the funds authorized in subsection 2 of this section until such time as the request to do so is revoked by the death or written revocation of the retired member.

104.601. YEARS OF SERVICE TO INCLUDE UNUSED ACCUMULATED SICK LEAVE, WHEN — CREDITED SICK LEAVE NOT COUNTED FOR VESTING PURPOSES — APPLICABLE ALSO TO TEACHERS' AND SCHOOL EMPLOYEES' RETIREMENT SYSTEM. — Any member retiring pursuant to the provisions of this chapter or any member retiring pursuant to provisions of chapter 169, RSMo, who is a member of the public school retirement system and who is employed by a state agency other than an institution of higher learning, after working continuously until reaching retirement age, shall be credited with all his or her unused sick leave as [certified by his or her employing agency] **reported through the financial and human resources system maintained by the office of administration, or if a state agency's employees are not paid salaries or wages through such system, as reported directly by the state agency.** When calculating years of service, each member shall be entitled to one-twelfth of a year of creditable service for each one hundred sixty-eight hours of unused accumulated sick leave earned by the member. **The employing agency shall not certify unused sick leave unless such unused sick leave could have been used by the member for sickness or injury.** The rate of accrual of sick leave for purposes of computing years of service [as] **pursuant to this section** [applies to legislative, executive and judicial employees] shall be [consistent with the rate

of accrual as specified by regulations of the personnel advisory board pursuant to section 36.350, RSMo] **no greater than ten hours per month**. Nothing under this section shall allow a member to vest in the retirement system by using such credited sick leave to reach the time of vesting.

104.605. ELIGIBLE ROLLOVER DISTRIBUTION AND ELIGIBLE RETIREMENT PLAN DEFINED — COMPLIANCE WITH IRS CODE REQUIRED. — 1. Notwithstanding any provision to the contrary in this chapter, the term "eligible rollover distribution" shall have the meaning specified in section 402(c)(4) of the Internal Revenue Code of 1986, as amended, and which is herein incorporated by reference.

2. Notwithstanding any provision to the contrary in this chapter, the term "eligible retirement plan" shall have the meaning specified in section 402(c)(8)(B) of the Internal Revenue Code of 1986, as amended, and which is herein incorporated by reference.

3. For distributions occurring after December 31, 1993, the systems shall comply with section 401(a)(31) of the Internal Revenue Code of 1986, as amended, and which is herein incorporated by reference.

104.620. CONTRIBUTION REFUND TO MEMBERS — EFFECT ON BENEFITS — RECORD RETENTION — REVERSION TO CREDIT OF FUND, WHEN — REVERSION OF UNCLAIMED BENEFITS, WHEN — REFUND RECEIVED, WHEN. — 1. Any member who has not received a lump sum payment equal to the sum total of the contributions that the member paid into the retirement system, plus interest credited to his or her account, shall be entitled to such a lump sum payment. Lump sum payments made pursuant to this section shall not be reduced by any retirement benefits which a member is entitled to receive, but shall be paid in full out of appropriate funds pursuant to appropriations for this purpose.

2. In the event any accumulated contributions standing to a member of the Missouri state employees' retirement system's credit remains unclaimed by such member for a period of four years or more, such accumulated contributions shall automatically revert to the credit of the fund for the Missouri state employees' retirement system. If an application is made, after such reversion, for such accumulated contributions, the board shall pay such contributions from the fund for the Missouri state employees' retirement system; except that, no interest shall be paid on such funds after the date of the reversion to the fund for the Missouri state employees' retirement system.

3. In the event any amount is due a deceased member, survivor, or beneficiary who dies after September 1, 2002, such amount shall be paid to the person or entity designated in writing as beneficiary to receive such amount by such member, survivor, or beneficiary. The member, survivor, or beneficiary may designate in writing a beneficiary to receive any final payment due after the death of a member, survivor, or beneficiary pursuant to this chapter. If no living person or entity so designated as beneficiary exists at the time of death, such amount shall be paid to the surviving spouse married to the deceased member, survivor, or beneficiary at the time of death. If no surviving spouse exists, such amount shall be paid to the surviving children or their descendants of such member, survivor, or beneficiary in equal parts. If no surviving children or any of their descendants exist, such amount shall be paid to the surviving parents of such member, survivor, or beneficiary in equal parts. If no surviving parents exist, such amount shall be paid to the surviving brothers, sisters, or their descendants of such member, survivor, or beneficiary in equal parts. If no surviving brothers, sisters, or their descendants exist, payment may be made as otherwise permitted by law. Notwithstanding this subsection, any amount due to a deceased member as payment of all or part of a lump sum pursuant to section 104.625 shall be paid to the member's surviving spouse married to the member at the time of death, and otherwise payment may be made as provided in this subsection. In the event any amount that is due to a member of either system remains unclaimed by such member for a

period of four years or more, such amount shall automatically revert to the credit of the fund of the member's system. If an application is made after such reversion for such amount, the board shall pay such amount from the board's fund to the member, except that no interest shall be paid on such funds after the date of the reversion to the fund.

4. The beneficiary of any member who purchased creditable service in the Missouri state employees' retirement system shall receive a refund upon the member's death equal to the amount of any purchase less any retirement benefits received by the member unless an annuity is payable to a survivor or beneficiary as a result of the member's death. In that event, the beneficiary of the survivor or beneficiary who received the annuity shall receive a refund upon the survivor's or beneficiary's death equal to the amount of the member's purchase of service less any annuity amounts received by the member and the survivor or beneficiary.

104.625. ANNUITIES AND LUMP SUM PAYMENTS, WHEN, DETERMINATION OF AMOUNT.

— Effective [January] **July 1, 2002**, any member retiring pursuant to the provisions of sections 104.010 to 104.801, except an elected official or a member of the general assembly, who has not been paid retirement benefits and continues employment for at least two years beyond normal retirement age, may elect to receive an annuity and lump sum payment or payments, determined as follows:

(1) A retroactive starting date shall be established which shall be [the later of the date when a normal annuity would have first been payable had the member retired at that time or five years before the annuity starting date, which shall be the first day of the month with respect to which an amount is paid as annuity pursuant to this section] **a date selected by the member; provided, however, that the retroactive starting date selected by the member shall not be a date which is earlier than the date when a normal annuity would have first been payable. In addition, the retroactive starting date shall not be more than five years prior to the annuity starting date, which shall be the first day of the month with respect to which an amount is paid as an annuity pursuant to this section. The member's selection of a retroactive starting date shall be done in twelve-month increments, except this restriction shall not apply when the member selects the total available time between the retroactive starting date and the annuity starting date;**

(2) The prospective annuity payable as of the annuity starting date shall be determined pursuant to the provisions otherwise applicable under the law, with the exception that it shall be the amount which would have been payable had the member actually retired on the retroactive starting date under the retirement plan selected by the member. Other than for the lump sum payment or payments specified in subdivision (3) of this section, no other amount shall be due for the period between the retroactive starting date and the annuity starting date;

(3) The lump sum payable shall be ninety percent of the annuity amounts which would have been paid to the member from the retroactive starting date to the annuity starting date had the member actually retired on the retroactive starting date and received a normal annuity. The member shall elect to receive the lump sum amount either in its entirety at the same time as the initial annuity payment is made or in three equal annual installments with the first payment made at the same time as the initial annuity payment; [and]

(4) Any annuity payable pursuant to this section that is subject to a division of benefit order pursuant to section 104.312 shall be calculated as follows:

(a) Any service of a member between the retroactive starting date and the annuity starting date shall not be considered creditable service except for purposes of calculating the division of benefit; and

(b) The lump sum payment described in subdivision (3) of this section shall not be subject to any division of benefit order; **and**

(5) For purposes of determining annual benefit increases payable as part of the lump sum and annuity provided pursuant to this section, the retroactive starting date shall be considered the member's date of retirement.

104.800. TRANSFERS OF CREDITABLE SERVICE TO OTHER RETIREMENT SYSTEM — TRANSFER TO BE MADE, WHEN — EFFECT OF TRANSFER — DEATH OF MEMBER PRIOR TO RETIREMENT AND TRANSFER TO BE COMPUTED UNDER SYSTEM WITH MOST ADVANTAGEOUS BENEFITS. — 1. Except as otherwise provided by law, any person having earned creditable service pursuant to the provisions of the state employees' retirement system or pursuant to the provisions of the state transportation department employees' and highway patrol retirement system or having service as a statewide state elective officer or having service as a member of the general assembly or having service pursuant to the provisions of sections 287.812 to 287.855, RSMo, or having service as a judge, as defined in section 476.515, RSMo, may elect prior to retirement and not after retirement, to make a one-time transfer of credit for such service or such creditable service to or from any other retirement system or type of service specified in this section or sections 56.800 to 56.840, RSMo, for which the person has accumulated service or creditable service. The amount of transferred credit shall be accumulated with the amount of such creditable service or such service earned by the person in the retirement system or type of service to which the service is transferred for purposes of determining the benefits to which the person is entitled under the retirement system or type of service to which the service is transferred. The transfer of such creditable service or service shall become effective on the first day of the second month following the month in which the person files written notification of the person's election with the retirement boards affected by such service transfer. When the election to transfer creditable service or service becomes effective, the person shall thereby forfeit any claim to any benefit under the provisions of the retirement system or type of service, as the case may be, from which the service or creditable service was transferred regardless of the amount of service or creditable service previously earned in such retirement system or type of service. **Any person who has transferred service pursuant to this subsection prior to August 28, 2002, and who is an employee covered by a retirement plan described in this subsection after that date, may elect to make an additional transfer of service prior to retirement if additional service would otherwise be available to be transferred except for the forfeiture of that service after the previous transfer. In no event shall the amount of service that a person shall be entitled to transfer pursuant to the provisions of this section [shall not] exceed [five] eight years.**

2. In the event of the death of a member before retirement and prior to exercising transfer rights pursuant to the provisions of this section, survivorship benefits shall be computed as if such person had in fact exercised or not exercised the person's transfer rights to produce the most advantageous benefit possible.

3. Any person that has earned creditable service pursuant to the provisions governing the Missouri state employees' retirement system or pursuant to the provisions of chapter 287, RSMo, or chapter 476, RSMo, who terminated employment prior to August 13, 1986, shall, upon application to the board of trustees of the Missouri state employees' retirement system, be made, constituted and appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters for the remainder of the person's life. Upon request of the board or the court from which the person retired, the consultant shall give opinions or be available to give opinions in writing or orally in response to such request. As compensation for such services, the consultant shall be eligible, prior to retirement, to make a one-time transfer of creditable service as provided in this section.

104.1015. ELECTION INTO YEAR 2000 PLAN, EFFECT OF — COMPARISON OF PLANS PROVIDED — CALCULATION OF ANNUITY. — 1. Persons covered by a closed plan on July 1, 2000, shall elect whether or not to change to year 2000 plan coverage. Any such person who

elects to be covered by the year 2000 plan shall forfeit all rights to receive benefits under this chapter except as provided under the year 2000 plan and all creditable service of such person under the closed plan shall be credited under the year 2000 plan. Any such person who elects not to be covered by the year 2000 plan shall waive all rights to receive benefits under the year 2000 plan. In no event shall any retroactive annuity be paid to such persons pursuant to sections 104.1003 to 104.1093 except as described in subsection 2 of this section.

2. Each retiree of the closed plan on July 1, 2000, shall be furnished by the appropriate system a written comparison of the retiree's closed plan coverage and the retiree's potential year 2000 plan coverage. A retiree shall elect whether or not to change to year 2000 plan coverage by making a written election, on a form furnished by the appropriate board, and providing that form to the system by no later than twelve months after July 1, 2000, and any retiree who fails to make such election within such time period shall be deemed to have elected to remain covered under the closed plan; provided the election must be after the retiree has received from the appropriate system such written comparison. The retirement option elected under the year 2000 plan shall be the same as the retirement option elected under the closed plan, except any retiree who is receiving one of the options providing for a continuing lifetime annuity to a surviving spouse under the closed plan may elect to receive an annuity under option 1 or 2 of section 104.1027, or a life annuity under subsection 2 of section 104.1024, provided the person who was married to the member at the time of retirement, if any, consents in writing to such election made pursuant to section 104.1024, or to any election described in this section if the person was married to a member of the Missouri state employees' retirement system. The effective date of payment of an annuity under the year 2000 plan as provided in this subsection shall begin on July 1, 2000. No adjustment shall be made to retirement benefits paid to the retiree prior to July 1, 2000. In order to calculate a new monthly annuity for retirees electing coverage under the year 2000 plan pursuant to this subsection, the following calculations shall be made:

(1) Except as otherwise provided in this subsection, the retiree's gross monthly retirement annuity in effect immediately prior to July 1, 2000, shall be multiplied by the percentage increase in the life annuity formula between the closed plan and the year 2000 plan. This amount shall be added to the retiree's gross monthly retirement annuity in effect immediately prior to July 1, 2000, to arrive at the retiree's new monthly retirement annuity in the year 2000 plan on July 1, 2000. The age of eligibility and reduction factors applicable to the retiree's original annuity under the closed plan shall remain the same in the annuity payable under the year 2000 plan, except as provided in subdivision (2) of this subsection.

(2) If option 1 or 2 pursuant to section 104.1027 is chosen by the retiree under the year 2000 plan, the new monthly retirement annuity calculated pursuant to subdivision (1) of this subsection shall be recalculated using the reduction factors for the option chosen pursuant to section 104.1027.

(3) If a temporary annuity is payable pursuant to subsection 4 of section 104.1024 the additional temporary annuity shall be calculated by multiplying the retiree's credited service by the retiree's final average pay by eight-tenths of one percent.

(4) Cost-of-living adjustments paid pursuant to section 104.1045 will commence on the anniversary of the retiree's annuity starting date coincident with or next following July 1, 2000.

(5) Any retiree or other person described in this section who elects coverage under the year 2000 plan based on service rendered as a member of the general assembly or as a statewide elected official shall receive an annuity under the year 2000 plan calculated pursuant to the provisions of section 104.1084 using the current monthly pay at the time of the election with future COLAs calculated pursuant to subsection 7 of section 104.1084.

3. Each person who is an employee and covered by the closed plan and not a retiree of the closed plan on July 1, 2000, shall elect whether or not to change to year 2000 plan coverage prior to the last business day of the month before the person's annuity starting date, and if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the

appropriate system of such election and any other information required by the year 2000 plan created by sections 104.1003 to 104.1093; provided, such election must be after the person has received from the year 2000 plan a written comparison of the person's closed plan coverage and the person's potential year 2000 plan coverage and the election must be made in writing on a form furnished by the appropriate board. If such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required pursuant to section 104.420 or subsection 2 of section 104.372 for members of the general assembly.

4. Each person who is not an employee and not a retiree and is eligible for a deferred annuity from the closed plan on July 1, 2000, shall elect whether or not to change to the year 2000 plan coverage prior to the last business day of the month before the person's annuity starting date, and if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the appropriate system of such election and any other information required by the year 2000 plan created by sections 104.1003 to 104.1093; provided, the election must be after the person has received from the year 2000 plan a written comparison of the person's closed plan coverage and the person's potential year 2000 plan coverage and the election must be made in writing on a form furnished by the appropriate board. If such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required pursuant to section 104.420 or subsection 2 of section 104.372 for members of the general assembly.

5. Each person who is not an employee and not a retiree and is eligible for a deferred annuity from the closed plan and returns to covered employment on or after July 1, 2000, shall be covered under the closed plan; provided, such person shall elect whether or not to change to the year 2000 plan coverage prior to the last business day of the month before the person's annuity starting date, and if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the appropriate system of such election and any other information required by the year 2000 plan created by sections 104.1003 to 104.1093 and the election must be after the person has received from the year 2000 plan a written comparison of the person's closed plan coverage and the person's potential year 2000 plan coverage and the election must be made in writing on a form furnished by the appropriate board. If such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required under section 104.420 or subsection 2 of section 104.372 for members of the general assembly.

6. Each person who is not an employee and not a retiree and not eligible for a deferred annuity from the closed plan but has forfeited creditable service with the closed plan and becomes an employee **on or after [July 1, 2000] August 28, 2002**, shall be changed to year 2000 plan coverage [upon such return] and **upon receiving credited service continuously for one year shall** receive credited service for all such forfeited creditable service under the closed plan.

7. Each person who was employed as a member of the general assembly through December 31, 2000, covered under the closed plan, and has served at least two full biennial assemblies as defined in subdivision (24) of subsection 1 of section 104.010 but who is not eligible for a deferred annuity under the closed plan shall be eligible to receive benefits under the new plan pursuant to subdivision (5) of subsection 2 of this section upon meeting the age requirements under the new plan.

8. The retirees and persons described in subsections 2 and 4 of this section shall be eligible for benefits under those subsections pursuant to subsection 8 of section 104.610.

104.1018. VESTING OF BENEFITS, WHEN — REEMPLOYMENT OF MEMBER, EFFECT OF.

— 1. When a member is no longer employed in a position covered by the system, membership in the system shall thereupon cease. If a member has five or more years of credited service upon

such member's termination of membership, such member shall be a vested former member entitled to a deferred annuity pursuant to section 104.1036. If a member has fewer than five years of credited service upon termination of membership, such former member's credited service shall be forfeited, provided that if such former member becomes reemployed in a position covered by the system, such former member shall again become a member of the system and the forfeited credited service shall be restored **after receiving creditable service continuously for one year.**

2. Upon a member becoming a retiree, membership shall cease and, except as otherwise provided in section 104.1039, the person shall not again become a member of the system.

3. If a vested former member becomes reemployed in a position covered by the system before such vested former member's annuity starting date, membership shall be restored with the previous credited service and increased by such reemployment.

104.1021. CREDITED SERVICE DETERMINED BY BOARD — CALCULATION. — 1. The appropriate board shall determine how much credited service shall be given each member consistent with this section.

2. If a member terminates employment and is eligible to receive an annuity pursuant to the year 2000 plan, or becomes a vested former member at the time of termination, the member's or former member's unused sick leave as [certified by the member's employing department] **reported through the financial and human resources system maintained by the office of administration, or if a department's employees are not paid salaries or wages through such system, as reported directly by the department,** for which the member has not been paid will be converted to credited service at the time of application for retirement benefits. The member shall receive one-twelfth of a year of credited service for each one hundred and sixty-eight hours of such unused sick leave. **The employing department shall not certify unused sick leave unless such unused sick leave could have been used by the member for sickness or injury. The rate of accrual of sick leave for purposes of computing years of service pursuant to this section shall be no greater than ten hours per month.** Such credited service shall not be used in determining the member's eligibility for retirement or final average pay. Such credited service shall be added to the credited service in the last position of employment held as a member of the system.

3. If a member is employed in a covered position and simultaneously employed in one or more other covered or noncovered positions, credited service shall be determined as if all such employment were in one position, and covered pay shall be the total of pay for all such positions.

4. In calculating any annuity, "credited service" means a period expressed as whole years and any fraction of a year measured in twelfths that begins on the date an employee commences employment in a covered position and ends on the date such employee's membership terminates pursuant to section 104.1018 plus any additional period for which the employee is credited with service pursuant to this section.

5. A member shall be credited for all military service after membership commences as required by state and federal law.

6. Any member who had active military service in the United States Army, Air Force, Navy, Marine Corps, Army or Air National Guard, Coast Guard, or any reserve component thereof prior to becoming a member, or who is otherwise ineligible to receive credited service pursuant to subsection 1 or 5 of this section, and who became a member after the person's discharge from military service under honorable conditions may elect, prior to retirement, to purchase credited service for all such military service, but not to exceed four years, provided the person is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan, other than a United States military service retirement system, for the military service to be purchased, and an affidavit so stating is filed by the member with the year 2000 plan along with the submission of appropriate documentation verifying the member's dates of active service. The purchase shall be effected by the member paying to the

system an amount equal to the state's contributions that would have been made to the system on the member's behalf had the member been a member for the period for which the member is electing to purchase credit and had the member's pay during such period of membership been the same as the annual pay rate as of the date the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of such member's employment with simple interest calculated from the date of employment to the date of election pursuant to this subsection. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. If a member who purchased credited service pursuant to this subsection dies prior to retirement, the surviving spouse may, upon written request, receive a refund of the amount contributed for such purchase of such credited service, provided the surviving spouse is not entitled to survivorship benefits payable pursuant to the provisions of section 104.1030.

7. Any member of the Missouri state employees' retirement system shall receive credited service for the creditable prior service that such employee would have been entitled to under the closed plan pursuant to section 104.339, subsections 2, and 6 to 9 of section 104.340, subsection 12 of section 104.342, section 104.344, subsection 4 of section 104.345, subsection 4 of section 104.372, section 178.640, RSMo, and section 211.393, RSMo, provided such service has not been credited under the closed plan.

8. Any member who has service in both systems and dies or terminates employment shall have the member's service in the other system transferred to the last system that covered such member and any annuity payable to such member shall be paid by that system. Any such member may elect to transfer service between systems prior to termination of employment, provided, any annuity payable to such member shall be paid by the last system that covered such member prior to the receipt of such annuity.

9. In no event shall any person or member receive credited service pursuant to the year 2000 plan if that same service is credited for retirement benefits under any defined benefit retirement system not created pursuant to this chapter.

10. Any additional credited service as described in subsections 5 to 7 of this section shall be added to the credited service in the first position of employment held as a member of the system. Any additional creditable service received pursuant to section 105.691, RSMo, shall be added to the credited service in the position of employment held at the time the member completes the purchase or transfer pursuant to such section.

11. A member may not purchase any credited service described in this section unless the member has met the five-year minimum service requirement as provided in subdivisions (11) and (20) of section 104.1003, the two full biennial assemblies minimum service requirement as provided in section 104.1084, or the four-year minimum service requirement as provided in section 104.1084.

12. Absences taken by an employee without compensation for sickness and injury of the employee of less than twelve months or for leave taken by such employee without compensation pursuant to the provisions of the Family and Medical Leave Act of 1993 shall be counted as years of credited service.

104.1024. RETIREMENT, APPLICATION — ANNUITY PAYMENTS, HOW PAID, AMOUNT — ELECTION TO RECEIVE ANNUITY OR LUMP SUM PAYMENT FOR CERTAIN EMPLOYEES, DETERMINATION OF AMOUNT. — 1. Any member who terminates employment may retire on or after attaining normal retirement eligibility by making application in written form and manner approved by the appropriate board. The written application shall set forth the annuity starting date which shall not be earlier than the first day of the second month following the month of the execution and filing of the member's application for retirement nor later than the first day of the fourth month following the month of the execution and filing of the member's application for retirement.

2. A member's annuity shall be paid in the form of a life annuity, except as provided in section 104.1027, and shall be an amount for life equal to one and seven-tenths percent of the final average pay of the member multiplied by the member's years of credited service.

3. The life annuity defined in subsection 2 of this section shall not be less than a monthly amount equal to fifteen dollars multiplied by the member's full years of credited service.

4. If as of the annuity starting date of a member who has attained normal retirement eligibility the sum of the member's years of age and years of credited service equals eighty or more years and if the member's age is at least fifty years but less than sixty-two years, or, in the case of a member of the highway patrol who shall be subject to the mandatory retirement provision of section 104.080, the mandatory retirement age and completion of five years of credited service, then in addition to the life annuity described in subsection 2 of this section, the member shall receive a temporary annuity equal to eight-tenths of one percent of the member's final average pay multiplied by the member's years of credited service. The temporary annuity and any cost-of-living adjustments attributable to the temporary annuity pursuant to section 104.1045 shall terminate at the end of the calendar month in which the earlier of the following events occurs: the member's death or the member's attainment of the earliest age of eligibility for reduced Social Security retirement benefits.

5. The annuity described in subsection 2 of this section for any person who has credited service not covered by the federal Social Security Act, as provided in sections 105.300 to 105.445, RSMo, shall be calculated as follows: the life annuity shall be an amount equal to two and five-tenths percent of the final average pay of the member multiplied by the number of years of service not covered by the federal Social Security Act in addition to one and seven-tenths percent of the final average pay of the member multiplied by the member's years of credited service covered by the federal Social Security Act.

6. Effective [January] **July 1, 2002**, any member, except an elected official or a member of the general assembly, who has not been paid retirement benefits and continues employment for at least two years beyond the date of normal retirement eligibility, may elect to receive an annuity and lump sum payment or payments, determined as follows:

(1) A retroactive starting date shall be established which shall be [the later of the first day of retirement eligibility or five years before the annuity starting date] **a date selected by the member; provided, however, that the retroactive starting date selected by the member shall not be a date which is earlier than the date when a normal annuity would have first been payable. In addition, the retroactive starting date shall not be more than five years prior to the annuity starting date. The member's selection of a retroactive starting date shall be done in twelve-month increments, except this restriction shall not apply when the member selects the total available time between the retroactive starting date and the annuity starting date;**

(2) The prospective annuity payable as of the annuity starting date shall be determined pursuant to the provisions of this section, with the exception that it shall be the amount which would have been payable at the annuity starting date had the member actually retired on the retroactive starting date under the retirement plan selected by the member. Other than for the lump sum payment or payments specified in subdivision (3) of this subsection, no other amount shall be due for the period between the retroactive starting date and the annuity starting date;

(3) The lump sum payable shall be ninety percent of the annuity amounts which would have been paid to the member from the retroactive starting date to the annuity starting date had the member actually retired on the retroactive starting date and received a life annuity. The member shall elect to receive the lump sum amount either in its entirety at the same time as the initial annuity payment is made or in three equal annual installments with the first payment made at the same time as the initial annuity payment; [and]

(4) Any annuity payable pursuant to this section that is subject to a division of benefit order pursuant to section 104.1051 shall be calculated as follows:

(a) Any service of a member between the retroactive starting date and the annuity starting date shall not be considered credited service except for purposes of calculating the division of benefit; and

(b) The lump sum payment described in subdivision (3) of this section shall not be subject to any division of benefit order; **and**

(5) For purposes of determining annual benefit increases payable as part of the lump sum and annuity provided pursuant to this section, the retroactive starting date shall be considered the member's date of retirement.

104.1039. REEMPLOYMENT OF A RETIREE, EFFECT ON ANNUITY. — If a retiree is employed as an employee by a department [and works more than one thousand hours per year regardless of the number of positions held on or after the first day of employment, the retiree shall not receive an annuity or additional credited service for any month or part of a month for which the retiree is so employed. The system shall recover any benefit payments received by the retiree during any year that the retiree works more than one thousand hours pursuant to section 104.1060. The term "year" as used in this section shall mean the twelve-month period beginning on the annuity starting date and each subsequent year thereafter.], **the retiree shall not receive an annuity payment for any calendar month in which the retiree is so employed. While reemployed the retiree shall be considered to be a new employee with no previous credited service upon subsequent retirement. Such retiree shall receive an additional annuity in addition to the original annuity, calculated based only on the credited service and the pay earned by such retiree during reemployment and paid in accordance with the annuity option originally elected; provided such retiree who ceases to receive an annuity pursuant to this section shall not receive such additional annuity if such retiree is employed by a department in a position that is covered by a state-sponsored defined benefit retirement plan not created pursuant to this chapter. The original annuity and any additional annuity shall be paid commencing as of the end of the first month after the month during which the retiree's reemployment terminates.**

104.1054. BENEFITS ARE OBLIGATIONS OF THE STATE — BENEFITS NOT SUBJECT TO EXECUTION, GARNISHMENT, ATTACHMENT, WRIT OF SEQUESTRATION — BENEFITS UNASSIGNABLE — REVERSION OF BENEFITS, WHEN — REFUND RECEIVED, WHEN. — 1. The benefits provided to each member and each member's spouse, beneficiary, or former spouse under the year 2000 plan are hereby made obligations of the state of Missouri and are an incident of every member's continued employment with the state. No alteration, amendment, or repeal of the year 2000 plan shall affect the then existing rights of members, or their spouses, beneficiaries or former spouses, but shall be effective only as to rights which would otherwise accrue hereunder as a result of services rendered by a member after such alteration, amendment, or repeal.

2. Except as otherwise provided in section 104.1051, any annuity, benefit, funds, property, or rights created by, or accruing or paid to, any person covered under the year 2000 plan shall not be subject to execution, garnishment, attachment, writ of sequestration, or any other process or claim whatsoever, and shall be unassignable, except with regard to the collection of child support and maintenance, **and except that a beneficiary may assign life insurance proceeds.** Any retiree may request the executive director, in writing, to withhold and pay on his behalf to the proper person, from each of his monthly annuity payments, if the payment is large enough, the contribution due from the retiree to any group providing state-sponsored life or medical insurance.

3. The executive director shall, when requested in writing by a retiree, withhold and pay over the funds authorized in subsection 2 of this section until such time as the request to do so is revoked by the death or written revocation of the retiree.

4. In the event any amount is due a deceased member, survivor, or beneficiary who dies after September 1, 2002, such amount shall be paid to the person or entity designated in writing as beneficiary to receive such amount by such member, survivor, or beneficiary. The member, survivor, or beneficiary may designate in writing a beneficiary to receive any final payment due after the death of a member, survivor, or beneficiary pursuant to this chapter. If no living person or entity so designated as beneficiary exists at the time of death, such amount shall be paid to the surviving spouse married to the deceased member, survivor, or beneficiary at the time of death. If no surviving spouse exists, such amount shall be paid to the surviving children or their descendants of such member, survivor, or beneficiary in equal parts. If no surviving children or any of their descendants exist, such amount shall be paid to the surviving parents of such member, survivor, or beneficiary in equal parts. If no surviving parents exist, such amount shall be paid to the surviving brothers, sisters, or their descendants of such member, survivor, or beneficiary in equal parts. If no surviving brothers, sisters, or their descendants exist, payment may be made as otherwise permitted by law. Notwithstanding this subsection, any amount due to a deceased member as payment of all or part of a lump sum pursuant to subsection 6 of section 104.1024 shall be paid to the member's surviving spouse married to the member at the time of death, and otherwise payment may be made as provided in this subsection. In the event any amount that is due to a person from either system remains unclaimed by such member for a period of four years or more, such amount shall automatically revert to the credit of the fund of the member's system. If an application is made for such amount after such reversion, the board shall pay such amount to the person from the board's fund, except that no interest shall be paid on such amounts after the date of the reversion to the fund.

5. All annuities payable pursuant to the year 2000 plan shall be determined based upon the law in effect on the last date of termination of employment.

6. The beneficiary of any member who purchased creditable service in the Missouri state employees' retirement system shall receive a refund upon the member's death equal to the amount of any purchase less any retirement benefits received by the member unless an annuity is payable to a survivor or beneficiary as a result of the member's death. In such event, the beneficiary of the survivor or beneficiary who received the annuity shall receive a refund upon the survivor's or beneficiary's death equal to the amount of the member's purchase of services less any annuity amounts received by the member and the survivor or beneficiary.

104.1055. ELIGIBLE ROLLOVER DISTRIBUTION AND ELIGIBLE RETIREMENT PLAN DEFINED — COMPLIANCE WITH IRS CODE, WHEN. — 1. Notwithstanding any provision to the contrary in this chapter, the term "eligible rollover distribution" shall have the meaning specified in section 402(c)(4) of the Internal Revenue Code of 1986, as amended, and which is herein incorporated by reference.

2. Notwithstanding any provision to the contrary in this chapter, the term "eligible retirement plan" shall have the meaning specified in section 402(c)(8)(B) of the Internal Revenue Code of 1986, as amended, and which is herein incorporated by reference.

3. For distributions occurring after December 31, 1993, the systems shall comply with section 401(a)(31) of the Internal Revenue Code of 1986, as amended, and which is herein incorporated by reference.

104.1066. ACTUARIAL EVALUATIONS, METHODS USED — CERTIFICATION OF CONTRIBUTION RATE, WHEN. — 1. The year 2000 plan intends to follow a financing pattern which computes and requires contribution amounts which, expressed as percents of active member payroll, will remain approximately level from year to year and from one generation of citizens to the next generation. Such contribution determinations require regular actuarial valuations, which shall be made by the board's actuary, using assumptions and methods adopted

by the board after consulting with its actuary. The entry age-normal cost valuation method shall be used in determining normal cost, and contributions for unfunded accrued liabilities shall be determined using level percent-of-payroll amortization. For purposes of this subsection **and section 104.436**, the actuary shall determine a single contribution rate applicable to both closed plan and year 2000 plan participants and, in determining such rate, make estimates of the probabilities of closed plan participants transferring to the year 2000 plan.

2. At least ninety days before each regular session of the general assembly, the board of the Missouri state employees' retirement system shall certify to the division of budget the contribution rate necessary to cover the liabilities of the year 2000 plan administered by such system, including costs of administration, expected to accrue during the next appropriation period. The commissioner of administration shall request appropriations based upon the contribution rate so certified. From appropriations so made, the commissioner of administration shall certify contribution amounts to the state treasurer who in turn shall immediately pay the [monthly] contributions to the year 2000 plan.

3. The employers of members covered by the Missouri state employees' retirement system who are not paid out of funds that have been deposited in the state treasury shall remit [monthly] **following each pay period** to the year 2000 plan an amount equal to the amount which the state would have paid if those members had been paid entirely from state funds. Such employers shall maintain payroll records for a minimum of five years and shall produce all such records as requested by the system. The system is authorized to request from the state office of administration an appropriation out of the annual budget of any such employer in the event such records indicate that such employer has not contributed the amounts required by this section. The office of administration shall request such appropriation which shall be equal to the amount necessary to replace any shortfall in contributions as determined by the system. From appropriations so made, the commissioner of administration shall certify contribution amounts to the state treasurer who in turn shall immediately pay such contributions to the year 2000 plan.

4. At least ninety days before each regular session of the general assembly, the board of the transportation department and highway patrol retirement system shall certify to the department of transportation and the department of public safety the contribution rate necessary to cover the liabilities of the year 2000 plan administered by such system, including costs of administration, expected to accrue during the next biennial or other appropriation period. Each department shall include in its budget and in its request for appropriations for personal service the sum so certified to it by such board, and shall present the same to the general assembly for allowance. The sums so certified and appropriated, when available, shall be immediately paid to the system and deposited in the highway and transportation employees' and highway patrol retirement and benefit fund.

5. These amounts are funds of the year 2000 plan and shall not be commingled with any funds in the state treasury.

104.1072. LIFE INSURANCE BENEFITS — MEDICAL INSURANCE FOR CERTAIN RETIREES.

— 1. Each board shall provide or contract, or both, for life insurance benefits for employees covered pursuant to the year 2000 plan as follows:

(1) Employees shall be provided fifteen thousand dollars of life insurance until December 31, 2000. Effective January 1, 2001, the system shall provide or contract or both for basic life insurance for employees covered under any retirement plan administered by the system pursuant to this chapter, persons covered by sections 287.812 to 287.856, RSMo, for employees who are members of the judicial retirement system as provided in section 476.590, RSMo, and, at the election of the state highways and transportation commission, employees who are members of the highways and transportation employees' and highway patrol retirement system, in the amount equal to one times annual pay, subject to a minimum amount of fifteen thousand dollars. The board shall establish by rule or contract the method for determining the annual rate of pay and any other terms of such insurance as it deems necessary to implement the requirements pursuant

to this section. Annual rate of pay shall not include overtime or any other irregular payments as determined by the board. Such life insurance shall provide for triple indemnity in the event the cause of death is a proximate result of a personal injury or disease arising out of and in the course of actual performance of duty as an employee;

(2) [Upon a] **Any** member [terminating] **who terminates** employment [and becoming a retiree the month following termination of employment,] **after reaching normal or early retirement eligibility and becomes a retiree within sixty days of such termination shall receive** five thousand dollars of life insurance [shall be provided] **coverage.**

2. (1) In addition to the life insurance authorized by the provisions of subsection 1 of this section, any person for whom life insurance is provided or contracted for pursuant to such subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, additional life insurance at a cost to be stipulated in a contract with a private insurance company or as may be required by a system if the board of trustees determines that the system should provide such insurance itself. The maximum amount of additional life insurance which may be so purchased is that amount which equals six times the amount of the person's annual rate of pay, subject to any maximum established by a board, except that if such maximum amount is not evenly divisible by one thousand dollars, then the maximum amount of additional insurance which may be purchased is the next higher amount evenly divisible by one thousand dollars.

(2) Any person defined in subdivision (1) of this subsection may retain an amount not to exceed sixty thousand dollars of life insurance following the date of his or her retirement if such person becomes a retiree the month following termination of employment and makes written application for such life insurance at the same time such person's application is made to the board for retirement benefits. Such life insurance shall only be provided if such person pays the entire cost of the insurance, as determined by the board, by allowing voluntary deductions from the member's annuity.

(3) In addition to the life insurance authorized in subdivision (1) of this subsection, any person for whom life insurance is provided or contracted for pursuant to this subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, life insurance covering the person's children or the person's spouse or both at coverage amounts to be determined by the board at a cost to be stipulated in a contract with a private insurer or as may be required by the system if the board of trustees determines that the system should provide such insurance itself.

(4) Effective July 1, 2000, any member who applies and is eligible to receive an annuity based on the attainment of at least fifty years of age with a total of years of age and years of credited service which is at least eighty shall be eligible to retain any optional life insurance described in subdivision (1) of this subsection. The amount of such retained insurance shall not be greater than the amount in effect during the month prior to termination of employment. Such insurance may be retained until the member's attainment of the earliest age for eligibility for reduced Social Security retirement benefits at which time the amount of such insurance that may be retained shall be that amount permitted pursuant to subdivision (2) of this subsection.

3. The state highways and transportation commission may provide for insurance benefits to cover medical expenses for members of the highways and transportation employees' and highway patrol retirement system. The state highways and transportation commission may provide medical benefits for dependents of members and for retired members. Contributions by the state highways and transportation commission to provide the [insurance] benefits shall be on the same basis as provided for other state employees pursuant to the provisions of section 104.515. Except as otherwise provided by law, the cost of benefits for dependents of members and for [retired members] **retirees** and their dependents shall be paid by the members **or retirees**. The [state highways and transportation] commission may contract **with other persons or entities including but not limited to third-party administrators, health network providers and health maintenance organizations** for all, or any part of, the [insurance]

benefits provided for in this section. [If the state highways and transportation commission contracts for insurance benefits, or for administration of the insurance plan, such contracts shall be entered into on the basis of competitive bids.] **The commission may require reimbursement of any medical claims paid by the commission's medical plan for which there was third-party liability.**

4. The highways and transportation employees' and highway patrol retirement system may request the state highways and transportation commission to provide life insurance benefits as required in subsections 1 and 2 of this section. If the state highways and transportation commission agrees to the request, the highways and transportation employees' and highway patrol retirement system shall reimburse the state highways and transportation commission for any and all costs for life insurance provided pursuant to subdivision [(1)] (2) of subsection 1 of this section. The person who is covered pursuant to subsection 2 of this section shall be solely responsible for the costs of any additional life insurance. **In lieu of the life insurance benefit in subdivision (2) of subsection 1 of this section, the highways and transportation employees' and highway patrol retirement system is authorized in its sole discretion to provide a death benefit of five thousand dollars.**

104.1075. DISABILITY INCOME BENEFITS. — 1. Each board shall provide or contract, or both, for disability income benefits for employees pursuant to sections 104.1003 to 104.1093, and other persons specified by applicable state law, as follows:

(1) Definitions of disability and other rules and procedures necessary for the operation and administration of the disability benefit shall be established by each board;

(2) An employee may elect to waive the receipt of the disability benefit provided for under this section at any time.

2. To the extent that each board enters or has entered into any contract with any insurer or service organization to provide the disability benefits provided for pursuant to this section:

(1) **The obligation to provide such disability benefits shall be primarily that of the insurer or service organization and secondarily that of the board;**

(2) **Any member who has been denied disability benefits by the insurer or service organization and has exhausted all appeal procedures provided by the insurer or service organization may appeal such decision by filing a petition against the insurer or service organization in a court of law in the member's county of residence;**

(3) **The board and the system shall not be liable for the disability benefits provided for by an insurer or service organization pursuant to this section and shall not be subject to any cause of action with regard to disability benefits or the denial of disability benefits by the insurer or service organization unless the member has obtained judgment against the insurer or service organization for disability benefits and the insurer or service organization is unable to satisfy that judgment.**

104.1084. RETIREMENT BENEFITS, GENERAL ASSEMBLY MEMBERS — COLA PERMITTED, WHEN — INELIGIBILITY FOR BENEFITS. — 1. For members of the general assembly, the provisions of this section shall supplement or replace the indicated other provisions of the year 2000 plan. "Normal retirement eligibility" means attainment of age fifty-five for a member who has served at least [two] **three** full biennial assemblies or the attainment of at least age fifty for a member who has served at least [two] **three** full biennial assemblies with a total of years of age and years of credited service which is at least eighty. A member shall receive two years of credited service for every full biennial assembly served. A full biennial assembly shall be equal to the period of time beginning on the first day the general assembly convenes for a first regular session until the last day of the following year. If a member serves less than a full biennial assembly, the member shall receive credited service for the pro rata portion of the full biennial assembly served.

2. For the purposes of section 104.1024, the normal retirement annuity of a member of the general assembly shall be an amount for life equal to one twenty-fourth of the monthly pay for a senator or representative on the annuity starting date multiplied by the years of credited service as a member of the general assembly. In no event shall any such member or eligible beneficiary receive annuity amounts in excess of one hundred percent of pay.

3. To be covered by the provisions of section 104.1030, or section 104.1036, a member of the general assembly must have served at least [two] **three** full biennial assemblies.

4. For members who are statewide elected officials, the provisions of this section shall supplement or replace the indicated other provisions of the year 2000 plan. "Normal retirement eligibility" means attainment of age fifty-five for a member who has served at least four years as a statewide elected official, or the attainment of age fifty with a total of years of age and years of such credited service which is at least eighty.

5. For the purposes of section 104.1024, the normal retirement annuity of a member who is a statewide elected official shall be an amount for life equal to one twenty-fourth of the monthly pay in the highest office held by such member on the annuity starting date multiplied by the years of credited service as a statewide elected official not to exceed twelve years.

6. To be covered by the provisions of sections 104.1030 and 104.1036, a member who is a statewide elected official must have at least four years as a statewide elected official.

7. The provisions of section 104.1045 shall not apply to persons covered by the general assembly and statewide elected official provisions of this section. Persons covered by the general assembly provisions and receiving a year 2000 plan annuity shall be entitled to a cost-of-living adjustment (COLA) when there are increases in pay for members of the general assembly. Persons covered by the statewide elected official provisions and receiving a year 2000 plan annuity shall be entitled to COLAs when there are increases in the pay for statewide elected officials in the highest office held by such person. The COLA described in this subsection shall be equal to and concurrent with the percentage increase in pay as described in section 105.005, RSMo. No COLA shall be less than zero.

8. Any member who serves under this chapter as a member of the general assembly or as a statewide elected official on or after August 28, 1999, shall not be eligible to receive any retirement benefits from the system under either the closed plan or the year 2000 plan based on service rendered on or after August 28, 1999, as a member of the general assembly or as a statewide elected official if such member is convicted of a felony that is determined by a court of law to have been committed in connection with the member's duties either as a member of the general assembly or as a statewide elected official, unless such conviction is later reversed by a court of law.

9. A member of the general assembly who has purchased or transferred creditable service shall not be subject to the cap on benefits pursuant to subsection 2 of this section for that portion of the benefit attributable to the purchased or transferred service.

104.1093. DESIGNATION OF AN AGENT — BENEFIT RECIPIENT DEFINED — REVOCATION OF AGENT'S AUTHORITY. — 1. For purposes of this section, the term "benefit recipient" shall include any employee, beneficiary or retiree pursuant to sections 104.010 to 104.1093, any administrative law judge, legal advisor or beneficiary as defined pursuant to section 287.812, RSMo, or any judge or beneficiary as defined pursuant to section 476.515, RSMo, or any special commissioner pursuant to section 476.450, RSMo.

2. Notwithstanding any provision of law to the contrary, any [employee, beneficiary or retiree pursuant to sections 104.010 to 104.1093, any administrative law judge, legal advisor or beneficiary as defined pursuant to section 287.812, RSMo, or any judge or beneficiary as defined pursuant to section 476.515, RSMo, or any special commissioner pursuant to section 476.450, RSMo,] benefit recipient may designate an agent who shall have the same authority as an agent pursuant to a durable power of attorney pursuant to sections 404.700 to 404.737, RSMo, with regard to the application for and receipt of an annuity or any other benefits. The authority of

such agent may be revoked at any time by such [employee, beneficiary or retiree] **benefit recipient**. The authority of such agent shall not terminate if such [employee, beneficiary or retiree] **benefit recipient** becomes disabled or incapacitated. The designation shall be effective only upon the disability or incapacity of the benefit recipient as determined by that person's physician and communicated in writing to the system.

3. In the event a benefit recipient becomes disabled or incapacitated and has not designated an agent pursuant to subsection 1 of this section, the following persons may act as agent as described in subsection 1 of this section upon submission of a written statement from a physician determining that the beneficiary recipient is disabled or incapacitated:

- (1) The spouse of the beneficiary recipient;**
- (2) If the spouse is unavailable, to a child of the beneficiary recipient;**
- (3) If a child is unavailable, to a brother or sister of the beneficiary recipient;**
- (4) If a brother or sister is unavailable, to a parent of the beneficiary recipient.**

4. The system shall not be liable with regard to any payment made in good faith pursuant to this section.

104.1200. DEFINITIONS. — As used in [this section and section] **sections 104.1200 to 104.1215**, the following terms mean:

(1) "Education employee", any person described in the following classifications who is employed by one of the institutions, otherwise would meet the definition of "employee" pursuant to section 104.010 or 104.1003, and is not employed at a technical or vocational school or college: teaching personnel, instructors, assistant professors, associate professors, professors and academic administrators holding faculty rank;

(2) "Institutions", Truman State University, Northwest Missouri State University, Southeast Missouri State University, Southwest Missouri State University, Central Missouri State University, Harris-Stowe State College, Lincoln University, Missouri Western State College and Missouri Southern State College;

(3) "Outside employee", any other provisions of sections 104.010 to 104.1093 to the contrary notwithstanding, an education employee first so employed on or after July 1, 2002, **who has not been previously employed in a position covered by the Missouri state employee's retirement system**. An outside employee shall not be covered by the other benefit provisions of this chapter, but rather shall be covered by the benefit provisions provided for pursuant to sections 104.1200 to 104.1215.

104.1210. NO CREDITED SERVICE FOR OUTSIDE EMPLOYEE OR MEMBER, WHEN — INFORMATION PROVIDED BY INSTITUTIONS AND ADMINISTRATORS, WHEN. — 1. In no event shall any outside employee [or member of the Missouri state employees' retirement system] receive [creditable service or] credited service in the system for any time period in which such employee or member participated in the defined contribution plan established pursuant to sections 104.1200 to 104.1215.

2. Institutions and any third-party administrator shall provide such information to the Missouri state employees' retirement system as may be required to implement the provisions of sections 104.1200 to 104.1215.

104.1215. OUTSIDE EMPLOYEE'S ELECTION FOR MEMBERSHIP, WHEN. — Any outside employee who has participated in the defined contribution plan established pursuant to sections 104.1200 to 104.1215 for at least six years may elect to become a member of the Missouri state employees' retirement system. Such employee shall:

(1) Make such election while actively employed in a position that would otherwise be eligible for membership in the Missouri state employees' retirement system except for the provisions of sections 104.1200 to 104.1215;

(2) Participate in the year 2000 plan; [except that such employee shall participate in the closed plan as defined in section 104.1003 if such employee was a member of the closed plan prior to participating in such defined contribution plan;]

(3) Be considered to have met the service requirements contained in [subsection 4 of section 104.335 or] section 104.1018[, whichever is otherwise applicable];

(4) Not receive any [creditable service or] credited service for service rendered while a participant in such defined contribution plan;

(5) Forfeit any right to future participation in the defined contribution plan after such election; and

(6) Not be eligible to receive credited service pursuant to section 104.1090 based on service rendered while a participant in such defined contribution plan.

105.664. ACTUARIAL VALUATION PERFORMED AT LEAST BIENNIALY. — Each plan shall at least biennially prepare and have available as public information an actuarial valuation performed in compliance with the recommended standards and guidelines as set forth by the governmental accounting standards board. Any plan currently performing valuations on a biennial basis making a substantial proposed change in benefits as defined in section 105.660, shall have a new actuarial valuation performed using the same methods and assumptions for the most recent periodic actuarial valuation.

217.665. BOARD MEMBERS, APPOINTMENT, QUALIFICATIONS — TERMS, VACANCIES — COMPENSATION, EXPENSES — CHAIRMAN, DESIGNATION. — 1. Beginning August 28, 1996, the board of probation and parole shall consist of seven members appointed by the governor by and with the advice and consent of the senate.

2. Beginning August 28, 1996, members of the board shall be persons of recognized integrity and honor, known to possess education and ability in decision making through career experience and other qualifications for the successful performance of their official duties. Not more than four members of the board shall be of the same political party.

3. At the expiration of the term of each member and of each succeeding member, the governor shall appoint a successor who shall hold office for a term of six years and until his successor has been appointed and qualified. Members may be appointed to succeed themselves.

4. Vacancies occurring in the office of any member shall be filled by appointment by the governor for the unexpired term.

5. The governor shall designate one member of the board as chairman. The chairman shall be the director of the division and shall have charge of the division's operations, funds and expenditures. The chairman shall designate by order of record another member to act as chairman in the event of absence or sickness of the chairman, and during such time the member so appointed by the chairman shall possess all powers of the chairman.

6. Members of the board shall devote full time to the duties of their office and before taking office shall subscribe to an oath or affirmation to support the Constitution of the United States and the Constitution of the State of Missouri. The oath shall be signed in the office of the secretary of state.

7. The annual compensation for each member of the board whose term commenced before August 28, 1999, shall be forty-five thousand dollars plus any salary adjustment, including prior salary adjustments, provided pursuant to section 105.005, RSMo. Salaries for board members whose terms commence after August 27, 1999, shall be set as provided in section 105.950, RSMo; provided, however, that the compensation of a board member shall not be increased during the member's term of office, except as provided in section 105.005, RSMo. In addition to compensation provided by law, the members shall be entitled to reimbursement for necessary travel and other expenses incurred pursuant to section 33.090, RSMo.

8. Any person who served as a member of the board of probation and parole prior to July 1, 2000, shall be made, constituted, appointed and employed by the board of

trustees of the estate employees' retirement system as a special consultant on the problems of retirement, aging and other state matters. As compensation for such services, such consultant shall not be denied use of any unused sick leave, or the ability to receive credit for unused sick leave pursuant to chapter 104, RSMo, provided such sick leave was maintained by the board of probation and parole in the regular course of business prior to July 1, 2000, but only to the extent of such sick leave records are consistent with the rules promulgated pursuant to section 36.350, RSMo. Nothing in this section shall authorize the use of any other form of leave that may have been maintained by the board prior to July 1, 2000.

476.517. ONE-TIME RETIREMENT PLAN ELECTION FOR CERTAIN JUDGES. — Any judge who is or has been a commissioner or deputy commissioner of the circuit court appointed after February 29, 1972, who has received creditable service pursuant to chapter 104, RSMo, and sections 476.515 to 476.565, based on service as a commissioner or deputy commissioner shall make a one-time retirement plan election upon application to receive retirement benefits. Such judge shall elect to:

(1) Receive retirement benefits based on all of the judge's service as a commissioner or deputy commissioner of the circuit court pursuant to section 104.374 or 104.1024, RSMo, or sections 476.515 to 476.565; or

(2) **Receive retirement benefits pursuant to section 104.374 or 104.1024, RSMo, based on the judge's service as a commissioner or deputy commissioner of the circuit court prior to August 28, 1999, and receive retirement benefits pursuant to sections 476.515 to 476.565 based on the judge's service as a commissioner or deputy commissioner of the circuit court on or after August 28, 1999.**

[104.095. DEATH PRIOR TO RETIREMENT, SURVIVING SPOUSE'S OPTION FOR COMPUTATION. — If an employee with ten or more years of creditable service dies before retirement, his spouse, if named as his beneficiary, may elect, in lieu of the benefits provided in section 104.140, to receive the reduced survivorship benefits under this section calculated as if the member had retired as of the date of his death. If a member who is entitled to a deferred normal annuity under the provisions of section 104.035 dies before retirement, his spouse, if named as his beneficiary, shall receive the reduced survivorship benefits under section 104.090 calculated as if the member had retired as of the date of his death.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to provide equitable treatment and timely application of certain pension benefits and compensation, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect on July 1, 2002, or upon its passage and approval, whichever occurs later.

Approved July 11, 2002

HB 1468 [SCS HB 1468]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Clarifies that commercial casualty insurance filings shall not be excessive, inadequate, or unfairly discriminatory.

AN ACT to repeal sections 375.775, 376.1350, 379.321, 379.362, 379.889 and 379.890, RSMo, relating to commercial lines of insurance, and to enact in lieu thereof five new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 375.775. Association, powers and duties.
- 376.1350. Definitions.
- 379.321. Rating plans to be filed with director, when — informational filings.
- 379.889. Rates not to be excessive, inadequate, or unfairly discriminatory — unfair discrimination defined.
- 379.890. Rates, rate plan or rate system filing — required actuarial data.
- 379.362. Commercial property insurance and commercial casualty insurance policies exempt, when — information required — surplus lines exception.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 375.775, 376.1350, 379.321, 379.362, 379.889 and 379.890, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 375.775, 376.1350, 379.321, 379.889 and 379.890, to read as follows:

375.775. ASSOCIATION, POWERS AND DUTIES. — 1. The association shall:

(1) Be obligated to the extent of the covered claims existing prior to the date of [entry of a decree or judgment pursuant to section 375.560] **a final order of liquidation** or a judicial determination by a court of competent jurisdiction in the insurer's domiciliary state that an insolvent insurer exists and arising within thirty days from the date or at the time of the first such [decree, judgment] **order** or determination, or before the policy expiration date if less than thirty days after such date, or before or at the time the insured replaces the policy or causes its cancellation, if he does so within thirty days of such date, but obligation shall include only that amount of each covered claim which is in excess of one hundred dollars and is less than three hundred thousand dollars, except that the association shall pay the full amount of any covered claim arising out of a workers' compensation policy. In no event shall the association be obligated to an insured or claimant in an amount in excess of the face amount or the limits of the policy from which a claim arises or be obligated for the payment of unearned premium in excess of the amount of ten thousand dollars, or to an insured or claimant on any covered claim until it receives confirmation from the receiver or liquidator of an insolvent insurer that the claim is within the coverage of an applicable policy of the insolvent insurer, except that within the sole discretion of the association, if the association deems it has sufficient evidence from other sources, including any claim forms which may be propounded by the association, that the claim is within the coverage of an applicable policy of the insolvent insurer, it shall proceed to process the claim, pursuant to its statutory obligations, without such confirmation by the receiver or liquidator:

(a) All covered claims shall be filed with the association on the claim information form required by this paragraph no later than the final date first set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer, except that if the time first set by the court for filing claims is one year or less from the date of insolvency, and an extension of the time to file claims is granted by the court, claims may be filed with the association no later than the new date set by the court or within one year of the date of insolvency, whichever first occurs. In no event shall the association be obligated on a claim filed after such date or on one not filed on the required form. A claim information form shall consist of a statement verified under oath by the claimant which includes all of the following:

- a. The particulars of the claim;
- b. A statement that the sum claimed is justly owing and that there is no setoff, counterclaim, or defense to said claim;

c. The name and address of the claimant and the attorney who represents the claimant, if any; and

d. If the claimant is an insured, that the insured's net worth did not exceed twenty-five million dollars on the date the insurer became an insolvent insurer. The association may require that a prescribed form be used and may require that other information and documents be included. A covered claim shall not include any claim not described in a timely filed claim information form even though the existence of the claim was not known to the claimant at the time a claim information form was filed;

(b) In the case of claims arising from a member insurer subject to a final order of liquidation issued on or after September 1, 2000, the provisions of paragraph (a) of subdivision (1) of subsection 1 of this section shall not apply and in lieu thereof, such claims shall be governed by this paragraph. All covered claims shall be filed with the association, liquidator or receiver no later than the final date first set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer, except that if the time first set by the court for filing claims is one year or less from the date of the insolvency, and an extension of the time to file claims is granted by the court, claims may be filed no later than the new date set by the court or within one year of the date of insolvency, whichever first occurs. The association may require that the prescribed forms be used and may require that other information and documents be included in confirming the existence of a covered claim or in determining eligibility of any claimant. Such information may include, but is not limited to:

a. The particulars of the claim;

b. A statement that the sum claimed is justly owing and that there is not setoff, counterclaim, or defense to said claim;

c. The name and address of the claimant and the attorney who represents the claimant, if any; and

d. A verification under oath of such requested information. In no event shall the association be obligated on a claim filed with the association, liquidator or receiver for protection afforded under the insured's policy for incurred but not reported losses. A covered claim shall not include any claim that is not filed prior to the final date for filing claims, even though the existence of the claims was not known to the claimant prior to such final date.

(c) In the case of claims arising from bodily injury, sickness or disease, the amount of any such award shall not exceed the claimant's reasonable expenses incurred for necessary medical, surgical, X-ray, dental services and comparable services for individuals who, in the exercise of their constitutional rights, rely on spiritual means alone for healing in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof, including prosthetic devices and necessary ambulance, hospital, professional nursing, and any amounts lost or to be lost by reason of claimant's inability to work and earn wages or salary or their equivalent, except that the association shall pay the full amount of any covered claim arising out of a workers' compensation policy. Such award may also include payments in fact made to others, not members of claimant's household, which were reasonably incurred to obtain from such other persons ordinary and necessary services for the production of income in lieu of those services the claimant would have performed for himself had he not been injured. Verdicts as respect only those civil actions as may be brought to recover damages as provided in this section shall specifically set out the sums applicable to each item in this section for which an award may be made;

(2) Be deemed the insurer to the extent of its obligations on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(3) Allocate claims paid and expenses incurred among the four accounts separately, and assess member insurers separately for each account amounts necessary to pay the obligations of

the association under subdivision (1) of this subsection to an insolvency, the expenses of handling covered claims subsequent to an insolvency, the cost of examinations under subdivision (6) of this subsection, and other expenses authorized by sections 375.771 to 375.779. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year on the kinds of insurance in the account bears to the net direct written premiums of all member insurers for the preceding calendar year of the kinds of insurance in the account. Each member insurer shall be notified of the assessment not later than thirty days before it is due. No member insurer may be assessed in any year on any account an amount greater than one percent of that member insurer's net direct written premiums for the preceding calendar year on the kinds of insurance in the account. If the maximum assessment, together with the other assets of the association in any account, does not provide in any one year in any account an amount sufficient to make all necessary payments from that account, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The association may defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. Deferred assessments shall be paid when such payment will not reduce capital or surplus below required minimums. Such payments shall be refunded to those companies receiving larger assessments by virtue of such deferment, or, in the discretion of any such company, credited against future assessments. No dividends shall be paid stockholders or policyholders of a member insurer so long as all or part of any assessment against such insurer remains deferred. Each member insurer may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by the member insurer if they are chargeable to the account for which the assessment is made. Assessments made under sections 375.771 to 375.779 and section 375.916 shall not be subject to subsection 1 of section 375.916;

(4) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the director, but such designation may be declined by a member insurer;

(5) Reimburse each servicing facility for obligations of the association paid by the facility and for actual expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this section;

(6) Be subject to examination and regulation by the director. The board of directors shall submit, not later than March thirtieth of each year, a financial report for the preceding calendar year in a form approved by the director; and

(7) Be considered to have been designated commissioner pursuant to subsection 2 of section 375.670, and it shall proceed to investigate, hear, settle, and determine covered claims unless the claimant shall, within thirty days from the date the claim is presented, present a written demand that such claim be processed in the liquidation proceedings as a claim not covered by sections 375.771 to 375.779.

2. The association may:

(1) Appear in, defend and appeal any action on a claim brought against the association;

(2) Employ or retain such persons as are necessary to handle claims and perform other duties of the association;

(3) Borrow funds necessary to effect the purposes of sections 375.771 to 375.779 in accord with the plan of operation;

(4) Sue or be sued;

(5) Negotiate and become a party to such contracts as are necessary to carry out the purpose of sections 375.771 to 375.779;

(6) Perform such other acts as are necessary or proper to effectuate the purpose of sections 375.771 to 375.779;

(7) Refund to the member insurers in proportion to the contribution of each member insurer to that account that amount by which the assets of the account exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the assets of the association in any account exceed the liabilities of that account as estimated by the board of directors for the coming year; and

(8) Become a member of the National Committee on Insurance Guaranty Funds.

376.1350. DEFINITIONS. — For purposes of sections 376.1350 to 376.1390, the following terms mean:

(1) "Adverse determination", a determination by a health carrier or its designee utilization review organization that an admission, availability of care, continued stay or other health care service has been reviewed and, based upon the information provided, does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness, and the payment for the requested service is therefore denied, reduced or terminated;

(2) "Ambulatory review", utilization review of health care services performed or provided in an outpatient setting;

(3) "Case management", a coordinated set of activities conducted for individual patient management of serious, complicated, protracted or other health conditions;

(4) "Certification", a determination by a health carrier or its designee utilization review organization that an admission, availability of care, continued stay or other health care service has been reviewed and, based on the information provided, satisfies the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care and effectiveness;

(5) "Clinical peer", a physician or other health care professional who holds a nonrestricted license in a state of the United States and in the same or similar specialty as typically manages the medical condition, procedure or treatment under review;

(6) "Clinical review criteria", the written screening procedures, decision abstracts, clinical protocols and practice guidelines used by the health carrier to determine the necessity and appropriateness of health care services;

(7) "Concurrent review", utilization review conducted during a patient's hospital stay or course of treatment;

(8) "Covered benefit" or "benefit", a health care service that an enrollee is entitled under the terms of a health benefit plan;

(9) "Director", the director of the department of insurance;

(10) "Discharge planning", the formal process for determining, prior to discharge from a facility, the coordination and management of the care that a patient receives following discharge from a facility;

(11) "Drug", any substance prescribed by a licensed health care provider acting within the scope of the provider's license and that is intended for use in the diagnosis, mitigation, treatment or prevention of disease. The term includes only those substances that are approved by the FDA for at least one indication;

(12) "Emergency medical condition", the sudden and, at the time, unexpected onset of a health condition that manifests itself by symptoms of sufficient severity that would lead a prudent lay person, possessing an average knowledge of medicine and health, to believe that immediate medical care is required, which may include, but shall not be limited to:

(a) Placing the person's health in significant jeopardy;

(b) Serious impairment to a bodily function;

(c) Serious dysfunction of any bodily organ or part;

(d) Inadequately controlled pain; or

(e) With respect to a pregnant woman who is having contractions:

a. That there is inadequate time to effect a safe transfer to another hospital before delivery;

or

b. That transfer to another hospital may pose a threat to the health or safety of the woman or unborn child;

(13) "Emergency service", a health care item or service furnished or required to evaluate and treat an emergency medical condition, which may include, but shall not be limited to, health care services that are provided in a licensed hospital's emergency facility by an appropriate provider;

(14) "Enrollee", a policyholder, subscriber, covered person or other individual participating in a health benefit plan;

(15) "FDA", the federal Food and Drug Administration;

(16) "Facility", an institution providing health care services or a health care setting, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory and imaging centers, and rehabilitation and other therapeutic health settings;

(17) "Grievance", a written complaint submitted by or on behalf of an enrollee regarding the:

(a) Availability, delivery or quality of health care services, including a complaint regarding an adverse determination made pursuant to utilization review;

(b) Claims payment, handling or reimbursement for health care services; or

(c) Matters pertaining to the contractual relationship between an enrollee and a health carrier;

(18) "Health benefit plan", a policy, contract, certificate or agreement entered into, offered or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services; **except that, health benefit plan shall not include any coverage pursuant to liability insurance policy, workers' compensation insurance policy, or medical payments insurance issued as a supplement to a liability policy;**

(19) "Health care professional", a physician or other health care practitioner licensed, accredited or certified by the state of Missouri to perform specified health services consistent with state law;

(20) "Health care provider" or "provider", a health care professional or a facility;

(21) "Health care service", a service for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury or disease;

(22) "Health carrier", an entity subject to the insurance laws and regulations of this state that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits or health services; **except that such plan shall not include any coverage pursuant to a liability insurance policy, workers' compensation insurance policy, or medical payments insurance issued as a supplement to a liability policy;**

(23) "Health indemnity plan", a health benefit plan that is not a managed care plan;

(24) "Managed care plan", a health benefit plan that either requires an enrollee to use, or creates incentives, including financial incentives, for an enrollee to use, health care providers managed, owned, under contract with or employed by the health carrier;

(25) "Participating provider", a provider who, under a contract with the health carrier or with its contractor or subcontractor, has agreed to provide health care services to enrollees with an expectation of receiving payment, other than coinsurance, co-payments or deductibles, directly or indirectly from the health carrier;

(26) "Peer-reviewed medical literature", a published scientific study in a journal or other publication in which original manuscripts have been published only after having been critically reviewed for scientific accuracy, validity and reliability by unbiased independent experts, and that has been determined by the International Committee of Medical Journal Editors to have met the uniform requirements for manuscripts submitted to biomedical journals or is published in a

journal specified by the United States Department of Health and Human Services pursuant to section 1861(t)(2)(B) of the Social Security Act, as amended, as acceptable peer-reviewed medical literature. Peer-reviewed medical literature shall not include publications or supplements to publications that are sponsored to a significant extent by a pharmaceutical manufacturing company or health carrier;

(27) "Person", an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing;

(28) "Prospective review", utilization review conducted prior to an admission or a course of treatment;

(29) "Retrospective review", utilization review of medical necessity that is conducted after services have been provided to a patient, but does not include the review of a claim that is limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding or adjudication for payment;

(30) "Second opinion", an opportunity or requirement to obtain a clinical evaluation by a provider other than the one originally making a recommendation for a proposed health service to assess the clinical necessity and appropriateness of the initial proposed health service;

(31) "Stabilize", with respect to an emergency medical condition, that no material deterioration of the condition is likely to result or occur before an individual may be transferred;

(32) "Standard reference compendia":

(a) The American Hospital Formulary Service-Drug Information; or

(b) The United States Pharmacopoeia-Drug Information;

(33) "Utilization review", a set of formal techniques designed to monitor the use of, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of, health care services, procedures, or settings. Techniques may include ambulatory review, prospective review, second opinion, certification, concurrent review, case management, discharge planning or retrospective review. Utilization review shall not include elective requests for clarification of coverage;

(34) "Utilization review organization", a utilization review agent as defined in section 374.500, RSMo.

379.321. RATING PLANS TO BE FILED WITH DIRECTOR, WHEN — INFORMATIONAL FILINGS. — 1. Every insurer shall file with the director, except as to commercial property or commercial casualty insurance as provided in subsection 6 of this section, every manual of classifications, rules, underwriting rules and rates, every rating plan and every modification of the foregoing which it uses and the policies and forms to which such rates are applied. Any insurer may satisfy its obligation to make any such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the director to accept such filings on its behalf, provided that nothing contained in section 379.017 and sections 379.316 to 379.361 shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization or as requiring any member or subscriber to authorize the director to accept such filings on its behalf. Filing with the director by such insurer or licensed rating organization within ten days after such manuals, rating plans or modifications thereof or policies or forms are effective shall be sufficient compliance with this section.

2. Except as to commercial property or commercial casualty insurance as provided in subsection 6 of this section [and inland marine risks as provided in subsection 1 of this section], no insurer shall make or issue a policy or contract except pursuant to filings which are in effect for that insurer or pursuant to section 379.017 and sections 379.316 to 379.361. Any rates, rating plans, rules, classifications or systems, in effect on August 13, 1972, shall be continued in effect until withdrawn by the insurer or rating organization which filed them.

3. Upon the written application of the insured, stating his or her reasons therefor, filed with the insurer, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

4. Every insurer which is a member of or a subscriber to a rating organization shall be deemed to have authorized the director to accept on its behalf all filings made by the rating organization which are within the scope of its membership or subscribership, provided:

(1) That any subscriber may withdraw or terminate such authorization, either generally or for individual filings, by written notice to the director and to the rating organization and may then make its own independent filings for any kinds of insurance, or subdivisions, or classes of risks, or parts or combinations of any of the foregoing, with respect to which it has withdrawn or terminated such authorization, or may request the rating organization, within its discretion, to make any such filing on an agency basis solely on behalf of the requesting subscriber; and

(2) That any member may proceed in the same manner as a subscriber unless the rating organization shall have adopted a rule, with the approval of the director:

(a) Requiring a member, before making an independent filing, first to request the rating organization to make such filing on its behalf and requiring the rating organization, within thirty days after receipt of such request, either:

- a. To make such filing as a rating organization filing;
- b. To make such filing on an agency basis solely on behalf of the requesting member; or
- c. To decline the request of such member; and

(b) Excluding from membership any insurer which elects to make any filing wholly independently of the rating organization.

5. Any change in a filing made pursuant to this section during the first six months of the date such filing becomes effective shall be approved or disapproved by the director within ten days following the director's receipt of notice of such proposed change.

6. Commercial property and commercial casualty requirements differ as follows:

(1) All commercial property and commercial casualty insurance rates, rate plans, modifications, and manuals of classifications, where appropriate, shall be filed with the director for informational purposes only. Such rates are not to be reviewed or approved by the department of insurance as a condition of their use. Nothing in this subsection shall require the filing of individual rates where the original manuals, rates and rules for the insurance plan or program to which such individual policies conform have already been filed with the director;

(2) If an insurer will only renew a commercial casualty or commercial property insurance policy with an increase in premium of twenty-five percent or more, a "premium alteration requiring notification" notice must be mailed or delivered by the insurer at least sixty days prior to the expiration date of the policy, except in the case of an umbrella or excess policy the coverage of which is contingent on the coverage of an underlying policy of commercial property or casualty insurance, in which case notice of an increase in premium of twenty-five percent or more shall be mailed or delivered at least thirty days prior to the expiration date of the policy. Such notice shall be mailed or delivered to the agent of record and to the named insured at the address shown in the policy. If the insurer fails to meet this notice requirement, the insured shall have the option of continuing the policy for the remainder of the notice period plus an additional thirty days at the premium rate of the existing policy or contract. This provision does not apply if the insurer has offered to renew a policy without such an increase in premium or if the insured fails to pay a premium due or any advance premium required by the insurer for renewal. For purposes of this section, "premium alteration requiring notification" means an annual increase in premium of twenty-five percent or more, exclusive of premium increases due to a change in the operations of the insured which increases either the hazard insured against or the individual loss characteristics, or due to a change in the magnitude of the exposure basis, including, without limitation, increases in payroll or sales. For commercial multiperil policies, no "premium alteration requiring notification" shall be required unless the increase in premium for all of a policyholder's policies taken together amounts to a twenty-five percent or more annual increase in premium;

(3) Commercial property and commercial casualty policy forms shall be filed with the director as provided pursuant to subsection 1 of this section. However, if after review, it is

determined that corrective action must be taken to modify the filed forms, the director shall impose such corrective action on a prospective basis for new policies. All policies previously issued which are of a type that is subject to such corrective action shall be deemed to have been modified to conform to such corrective action retroactive to their inception date;

(4) For purposes of this section, "commercial casualty" means "commercial casualty insurance" as defined in section 379.882. For purposes of this section, "commercial property" means property insurance, which is for business and professional interests, whether for profit, nonprofit or public in nature which is not for personal, family or household purposes, **and shall include commercial inland marine insurance**, but does not include title insurance;

(5) Nothing in this subsection shall limit the director's authority over excessive, inadequate or unfairly discriminatory rates.

379.889. RATES NOT TO BE EXCESSIVE, INADEQUATE, OR UNFAIRLY DISCRIMINATORY — UNFAIR DISCRIMINATION DEFINED. — [1. The effective date of a commercial casualty insurance filing required to be submitted to the director for review shall be the date specified therein, but not earlier than sixty days after the filing is received by the director. If the director has reviewed the filing prior to expiration of the waiting period, the director may authorize an effective date prior to expiration of the waiting period but not earlier than the date such written application is received. If the director has not approved or disapproved the commercial casualty insurance filing within the sixty-day period after the filing is received by the director, the filing shall be deemed approved until such time as the director disapproves the filing.

2. The director shall only approve] Commercial casualty insurance [filings that are not] **rates shall not be** excessive, inadequate or unfairly discriminatory. No rate shall be held to be excessive unless such rate is unreasonably high for the insurance coverage provided. No rate shall be held to be inadequate unless such rate is unreasonably low for the insurance coverage provided and is insufficient to sustain projected losses and expenses or unless such rate is unreasonably low for the insurance coverage provided and the use of such rate has, or if continued will have, the effect of destroying competition or creating a monopoly. Unfair discrimination shall be defined to include, but shall not be limited to, the use of rates which unfairly discriminate between risks in the application of like charges or credits or the use of rates which unfairly discriminate between risks having essentially the same hazard.

379.890. RATES, RATE PLAN OR RATE SYSTEM FILING — REQUIRED ACTUARIAL DATA. — Supporting actuarial data shall [accompany every] **be filed in support of a commercial casualty insurance rate, rating plan, or rating system filing, whenever requested by the director to determine whether rates are excessive, inadequate or unfairly discriminatory.** The data shall be in sufficient detail to:

- (1) Justify any rate level changes; and
- (2) Demonstrate the statistical significance of differences or correlations relevant to rating plan definitions and rate differentials.

[379.362. COMMERCIAL PROPERTY INSURANCE AND COMMERCIAL CASUALTY INSURANCE POLICIES EXEMPT, WHEN — INFORMATION REQUIRED — SURPLUS LINES EXCEPTION. — 1. Commercial property insurance and commercial casualty insurance policies shall be exempt from those provisions of sections 379.316 to 379.361, sections 379.420 to 379.510 and section 379.888 which concern regulation by the department of policy language, policy provisions or the format of such policies, or the rates associated with such policies, for any policy for which the policyholder certifies in writing, on a certification form approved by the department, that the policyholder understands that the policy's language or the policy's rating is unregulated by the department and that the requirements of either subdivision (1) or subdivision (2) below are met:

(1) The policyholder has utilized the services of the independent insurance adviser. For purposes of this section, the term "independent insurance adviser" means a person who is qualified through education, training or experience to assess the purchaser's insurance needs and analyze the policy with or on behalf of the policyholder. Such an insurance adviser may be an employee of the policyholder or a person retained by the purchaser, provided that the independent insurance adviser shall not also be an employee of the insurer. Such an independent insurance adviser shall only be compensated for services related to the insurance transaction in question by the policyholder; or

(2) The policyholder's commercial operations meet any two of the following criteria:

- (a) One hundred or more employees;
- (b) A net worth of over twenty-five million dollars;
- (c) Net revenues or sales of over fifty million dollars;
- (d) Paid aggregate annual commercial insurance premiums of over fifty thousand dollars, excluding workers' compensation and employer's liability insurance;
- (e) Is a not-for-profit or public entity with an annual budget or assets of at least twenty-five million dollars; or
- (f) Is a municipality with a population of over fifty thousand inhabitants.

2. An insurer writing a commercial property or commercial casualty insurance policy pursuant to subsection 1 of this section shall retain a copy of the policyholder's written certification as part of the insurer's policy records of the transaction.

3. Nothing contained in subsection 1 of this section shall be construed as exempting commercial property or commercial casualty policies which meet the requirements of subsection 1 of this section from any regulatory authority of the director of the department of insurance other than that authority related to the oversight of the policy language, policy provisions or the format of policies, or of the rates used to calculate the amount of premium charged. In particular, nothing contained in subsection 1 of this section shall limit the director's authority over excessive, inadequate or unfairly discriminatory rates.

4. The director may, by rule, require insurers providing coverage pursuant to subsection 1 of this section to retain information in such insurer's files identifying the policies providing such coverage, and to report to the department aggregate data regarding the types of such coverage written and the amounts charged for such coverage.

5. Notwithstanding the provisions of section 384.017, RSMo, commercial property or commercial casualty insurance meeting the requirements of subsection 1 of this section may be procured through a surplus lines licensee from an eligible surplus lines insurer even though the same type of coverage or quality of service is obtainable in the market from admitted insurers.]

Approved July 2, 2002

HB 1473 [SCS HB 1473]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows enrollees to waive their right to receive documents and materials from their health insurer.

AN ACT to repeal section 376.1350, RSMo, relating to health insurance, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 376.1350. Definitions.
- 376.1450. Waiver of enrollee's right to receive documents and materials in printed form, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 376.1350, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 376.1350 and 376.1450, to read as follows:

376.1350. DEFINITIONS. — For purposes of sections 376.1350 to 376.1390, the following terms mean:

- (1) "Adverse determination", a determination by a health carrier or its designee utilization review organization that an admission, availability of care, continued stay or other health care service has been reviewed and, based upon the information provided, does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness, and the payment for the requested service is therefore denied, reduced or terminated;
- (2) "Ambulatory review", utilization review of health care services performed or provided in an outpatient setting;
- (3) "Case management", a coordinated set of activities conducted for individual patient management of serious, complicated, protracted or other health conditions;
- (4) "Certification", a determination by a health carrier or its designee utilization review organization that an admission, availability of care, continued stay or other health care service has been reviewed and, based on the information provided, satisfies the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care and effectiveness;
- (5) "Clinical peer", a physician or other health care professional who holds a nonrestricted license in a state of the United States and in the same or similar specialty as typically manages the medical condition, procedure or treatment under review;
- (6) "Clinical review criteria", the written screening procedures, decision abstracts, clinical protocols and practice guidelines used by the health carrier to determine the necessity and appropriateness of health care services;
- (7) "Concurrent review", utilization review conducted during a patient's hospital stay or course of treatment;
- (8) "Covered benefit" or "benefit", a health care service that an enrollee is entitled under the terms of a health benefit plan;
- (9) "Director", the director of the department of insurance;
- (10) "Discharge planning", the formal process for determining, prior to discharge from a facility, the coordination and management of the care that a patient receives following discharge from a facility;
- (11) "Drug", any substance prescribed by a licensed health care provider acting within the scope of the provider's license and that is intended for use in the diagnosis, mitigation, treatment or prevention of disease. The term includes only those substances that are approved by the FDA for at least one indication;
- (12) "Emergency medical condition", the sudden and, at the time, unexpected onset of a health condition that manifests itself by symptoms of sufficient severity that would lead a prudent lay person, possessing an average knowledge of medicine and health, to believe that immediate medical care is required, which may include, but shall not be limited to:
 - (a) Placing the person's health in significant jeopardy;
 - (b) Serious impairment to a bodily function;
 - (c) Serious dysfunction of any bodily organ or part;
 - (d) Inadequately controlled pain; or

(e) With respect to a pregnant woman who is having contractions:

a. That there is inadequate time to effect a safe transfer to another hospital before delivery;

or

b. That transfer to another hospital may pose a threat to the health or safety of the woman or unborn child;

(13) "Emergency service", a health care item or service furnished or required to evaluate and treat an emergency medical condition, which may include, but shall not be limited to, health care services that are provided in a licensed hospital's emergency facility by an appropriate provider;

(14) "Enrollee", a policyholder, subscriber, covered person or other individual participating in a health benefit plan;

(15) "FDA", the federal Food and Drug Administration;

(16) "Facility", an institution providing health care services or a health care setting, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory and imaging centers, and rehabilitation and other therapeutic health settings;

(17) "Grievance", a written complaint submitted by or on behalf of an enrollee regarding the:

(a) Availability, delivery or quality of health care services, including a complaint regarding an adverse determination made pursuant to utilization review;

(b) Claims payment, handling or reimbursement for health care services; or

(c) Matters pertaining to the contractual relationship between an enrollee and a health carrier;

(18) "Health benefit plan", a policy, contract, certificate or agreement entered into, offered or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services; **except that, health benefit plan shall not include any coverage pursuant to liability insurance policy, workers' compensation insurance policy, or medical payments insurance issued as a supplement to a liability policy;**

(19) "Health care professional", a physician or other health care practitioner licensed, accredited or certified by the state of Missouri to perform specified health services consistent with state law;

(20) "Health care provider" or "provider", a health care professional or a facility;

(21) "Health care service", a service for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury or disease;

(22) "Health carrier", an entity subject to the insurance laws and regulations of this state that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits or health services; **except that such plan shall not include any coverage pursuant to a liability insurance policy, workers' compensation insurance policy, or medical payments insurance issued as a supplement to a liability policy;**

(23) "Health indemnity plan", a health benefit plan that is not a managed care plan;

(24) "Managed care plan", a health benefit plan that either requires an enrollee to use, or creates incentives, including financial incentives, for an enrollee to use, health care providers managed, owned, under contract with or employed by the health carrier;

(25) "Participating provider", a provider who, under a contract with the health carrier or with its contractor or subcontractor, has agreed to provide health care services to enrollees with an expectation of receiving payment, other than coinsurance, co-payments or deductibles, directly or indirectly from the health carrier;

(26) "Peer-reviewed medical literature", a published scientific study in a journal or other publication in which original manuscripts have been published only after having been critically

reviewed for scientific accuracy, validity and reliability by unbiased independent experts, and that has been determined by the International Committee of Medical Journal Editors to have met the uniform requirements for manuscripts submitted to biomedical journals or is published in a journal specified by the United States Department of Health and Human Services pursuant to section 1861(t)(2)(B) of the Social Security Act, as amended, as acceptable peer-reviewed medical literature. Peer-reviewed medical literature shall not include publications or supplements to publications that are sponsored to a significant extent by a pharmaceutical manufacturing company or health carrier;

(27) "Person", an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing;

(28) "Prospective review", utilization review conducted prior to an admission or a course of treatment;

(29) "Retrospective review", utilization review of medical necessity that is conducted after services have been provided to a patient, but does not include the review of a claim that is limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding or adjudication for payment;

(30) "Second opinion", an opportunity or requirement to obtain a clinical evaluation by a provider other than the one originally making a recommendation for a proposed health service to assess the clinical necessity and appropriateness of the initial proposed health service;

(31) "Stabilize", with respect to an emergency medical condition, that no material deterioration of the condition is likely to result or occur before an individual may be transferred;

(32) "Standard reference compendia":

(a) The American Hospital Formulary Service-Drug Information; or

(b) The United States Pharmacopoeia-Drug Information;

(33) "Utilization review", a set of formal techniques designed to monitor the use of, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of, health care services, procedures, or settings. Techniques may include ambulatory review, prospective review, second opinion, certification, concurrent review, case management, discharge planning or retrospective review. Utilization review shall not include elective requests for clarification of coverage;

(34) "Utilization review organization", a utilization review agent as defined in section 374.500, RSMo.

376.1450. WAIVER OF ENROLLEE'S RIGHT TO RECEIVE DOCUMENTS AND MATERIALS IN PRINTED FORM, WHEN. — An enrollee, as defined in section 376.1350, may waive his or her right to receive documents and materials from a managed care entity in printed form so long as such documents and materials are readily accessible electronically through the entity's Internet site. An enrollee may revoke such waiver at any time by notifying the managed care entity by phone or in writing or annually. Any enrollee who does not execute such a waiver and prospective enrollees shall have documents and materials from the managed care entity provided in printed form. For purposes of this section, "managed care entity" includes, but is not limited to, a health maintenance organization, preferred provider organization, point of service organization and any other managed health care delivery entity of any type or description.

Approved July 3, 2002

HB 1477 [SCS HB 1477]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises Missouri Health and Educational Facilities Act to include public community junior colleges.

AN ACT to repeal sections 360.106, 360.111, and 360.112, RSMo, and to enact in lieu thereof three new sections relating to the Missouri health and educational facilities act.

SECTION

- A. Enacting clause.
- 360.106. Definitions — bonds or notes issued for loans to or purchase of notes of school districts and community junior colleges — how secured — investment of funds — bids required for professional services furnished — report by authority due when.
- 360.111. School districts or public community junior college may participate in a direct deposit agreement — participation a waiver of right to bankruptcy.
- 360.112. Authority to serve as administrator for issuances — commissioner of education and state treasurer's authority.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 360.106, 360.111, and 360.112, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 360.106, 360.111, and 360.112, to read as follows:

360.106. DEFINITIONS — BONDS OR NOTES ISSUED FOR LOANS TO OR PURCHASE OF NOTES OF SCHOOL DISTRICTS AND COMMUNITY JUNIOR COLLEGES — HOW SECURED — INVESTMENT OF FUNDS — BIDS REQUIRED FOR PROFESSIONAL SERVICES FURNISHED — REPORT BY AUTHORITY DUE WHEN. — 1. As used in this section and sections 360.111 to 360.118, the following terms mean:

(1) "Funding agreement", any loan agreement, financing agreement or other agreement between the authority and a participating district under this section, providing for the use of proceeds of, security for, and the repayment of, school district bonds, and shall include a complete waiver by the participating district of all powers, rights and privileges conferred upon the participating district to institute any action authorized by any act of the Congress of the United States relating to bankruptcy on the part of the participating district;

(2) "Participating district", with respect to a particular issue of bonds, notes or other financial obligations, any school district and any public community junior college in this state which voluntarily enters into a funding agreement with the authority pursuant to this section;

(3) "School district bonds", any bonds, notes or other obligations issued by the authority for the purpose of making loans to, purchasing the bonds or notes of or otherwise by agreement using or providing for the use of the proceeds of the obligations by a participating district under this section and all related costs of issuance of the obligations including, but not limited to, all costs, charges, fees and expenses of underwriters, financial advisors, attorneys, consultants, accountants and of the authority.

2. In addition to other powers granted to the authority by sections 360.010 to 360.140, the authority shall have the power to issue school district bonds or notes for the purpose of making loans to, or purchasing the bonds, notes or other financial instruments of:

(1) Any school district or any public community junior college in this state for the use of the various funds of such school district or public community junior college for any lawful purpose; and

(2) Any school district in this state with respect to obligations issued by such school district pursuant to sections 164.121 to 164.301, RSMo, or otherwise by law.

3. In connection with the issuance of school district bonds pursuant to the powers granted in this section, the authority shall have all powers as set forth elsewhere in sections 360.010 to 360.140, and the provisions of sections 360.010 to 360.140 shall be applicable to the issuance of school district bonds to the extent that they are not inconsistent with the provisions of this section.

4. School district bonds issued pursuant to this section may be secured by a pledge of payments made to the authority by the participating district, by the bonds or notes of the participating district, or by a pooling of such payments, bonds or notes of two or more of such participating districts or as otherwise set forth in the funding agreements.

5. The authority may invest any funds held pursuant to powers granted under this section, which are not required for immediate disbursement, in any investment approved by the authority and specified in the trust indenture or resolution pursuant to which such bonds or notes are issued without regard to any limitation otherwise imposed by section 360.120 or otherwise by law; provided, however, that each participating district shall receive the earnings, or a credit for such earnings, to the extent any such amounts invested are attributable to a particular participating district.

6. (1) In connection with school district bonds, upon certification by the authority to the commissioner of education and the state treasurer that the funding agreement provides for consent by a participating district for direct deposit of its state payments to the trustee, the state treasurer shall transfer, but only out of funds described in this section, directly to the trustee for such school district bonds, the amounts needed to pay the principal and interest when due on the school district bonds attributable to a particular participating district. Such transfers for any school district bonds attributable to a particular participating district shall only be made out of, and to the extent of, the state payments and distributions from all funds to be made by the state to such participating district pursuant to sections 163.011 to 163.195, RSMo, and the distributions from the fair share fund to be made by the state to such participating district pursuant to section 149.015, RSMo. Any such transfer by the state on behalf of a participating district shall discharge the state's obligation to make such state payments to such participating district to the extent of such transfer;

(2) A participating district shall withdraw amounts from any of its funds established pursuant to section 165.011, RSMo, to the extent such amounts could have been used to make the payments made on its behalf by the state treasurer as provided in subdivision (1) of this subsection. Notwithstanding any provisions of section 108.180, RSMo, to the contrary, such amounts shall be deposited into the participating district's funds as provided by law in lieu of the state payments transferred to the trustee under the funding agreement;

(3) The authority shall from time to time develop guidelines containing certain criteria with respect to participating school districts and with respect to the issuance of school district bonds;

(4) Transfers made under this subsection pursuant to a school district's participation in a funding agreement under this section shall be made at no cost to the school district.

7. The authority shall provide for the payment of costs of issuance, costs of credit enhancement and any other costs or fees related to the issuance of any school district bonds other than reserve funds, out of the proceeds thereof or out of amounts distributed annually to the authority pursuant to sections 160.534 and 164.303, RSMo. The authority shall annually submit a request for funding of such costs to the commissioner of education in such form and at such time as he may request. A copy of such request shall be forwarded to the commissioner of administration. The authority shall provide for the payment of costs pursuant to this subsection only for bonds issued for the purpose of financing construction or renovation projects approved by voters after January 1, 1995, or refinancing construction or renovation projects or for refinance of lease purchase obligations with general obligation bonds.

8. Any refunding or refinancing of existing bonds of a school district under this section shall have a net present value savings of at least one and one-half percent of the par amount of the refunded bonds.

9. The commissioner of education shall serve as an ex officio, nonvoting, advisory member of the authority solely with regard to the exercise of powers granted pursuant to this section.

10. Nothing in this section or sections 360.111 to 360.118 shall be construed to relieve a school district **or public community junior college** of its obligation to levy a debt service levy or capital projects levy sufficient to retire any obligation of the district **or college** as otherwise provided by law.

11. Any professional services provided in connection with the sale of such bonds pursuant to this section, including, but not limited to, underwriters, bond counsel, underwriters' counsel, trustee and financial advisors, shall be obtained through competitive bidding. The initial bid for professional services shall be for a period of not longer than two years, and thereafter such bids shall be awarded for a period not longer than one year.

12. The authority shall review the cost effectiveness of the program established under this section and sections 360.111 to 360.118 and shall, on or before the fifteenth of August of each year, provide a report to the general assembly which shall contain a report on the program, the authority's findings and a recommendation of whether this section should be repealed, strengthened or otherwise amended.

360.111. SCHOOL DISTRICTS OR PUBLIC COMMUNITY JUNIOR COLLEGE MAY PARTICIPATE IN A DIRECT DEPOSIT AGREEMENT — PARTICIPATION A WAIVER OF RIGHT TO BANKRUPTCY. — Any school district **or public community junior college** which is not a participating district, as defined in section 360.106, with respect to a particular issue of its bonds, notes or other financial obligations may participate with the authority in a direct deposit agreement with respect to such issue of bonds, notes or other financial obligations. A direct deposit agreement under sections 360.111 to 360.118 shall satisfy all requirements of subsection 6 of section 360.106 with regard to funding agreements of participating districts, and such school district shall be subject to all requirements applicable to participating districts under subsections 6 and 9 of section 360.106 and shall have all powers granted to participating districts under subsection 6 of section 360.106. A direct deposit agreement under sections 360.111 to 360.118 shall include a complete waiver by the school district **or public community junior college** of all powers, rights and privileges conferred upon the school district **or public community junior college** to institute any action authorized by any act of the Congress of the United States relating to bankruptcy on the part of the school district **or public community junior college**. No school district **or public community junior college** shall be precluded from participation with the authority pursuant to section 360.106 with respect to any particular issue of bonds, notes or other financial obligations on the basis of the district's **or college's** participation with the authority in a direct deposit agreement pursuant to sections 360.111 to 360.118 with respect to any other issue of bonds, notes or other financial obligations.

360.112. AUTHORITY TO SERVE AS ADMINISTRATOR FOR ISSUANCES — COMMISSIONER OF EDUCATION AND STATE TREASURER'S AUTHORITY. — The authority shall serve as administrator for any issuance pursuant to sections 360.111 to 360.118. The authority, the commissioner of education and the state treasurer shall be authorized to take all actions with regard to a school district **or public community junior college** which has a direct deposit agreement under sections 360.111 to 360.118 as such persons are authorized to take such actions with respect to a participating district under subsection 6 of section 360.106.

Approved June 12, 2002

HB 1492 [SCS HB 1492]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes disclosure reporting deadlines.

AN ACT to repeal section 130.046, RSMo, relating to elections, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

130.046. Times for filing of disclosure — periods covered by reports — certain disclosure reports not required — supplemental reports, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 130.046, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 130.046, to read as follows:

130.046. TIMES FOR FILING OF DISCLOSURE — PERIODS COVERED BY REPORTS — CERTAIN DISCLOSURE REPORTS NOT REQUIRED — SUPPLEMENTAL REPORTS, WHEN. — 1. The disclosure reports required by section 130.041 for all committees shall be filed at the following times and for the following periods:

(1) Not later than the eighth day before an election for the period closing on the twelfth day before the election if the committee has made any contribution or expenditure either in support or opposition to any candidate or ballot measure;

(2) Not later than the thirtieth day after an election for a period closing on the twenty-fifth day after the election, if the committee has made any contribution or expenditure either in support of or opposition to any candidate or ballot measure; except that, a successful candidate who takes office prior to the twenty-fifth day after the election shall have complied with the report requirement of this subdivision if a disclosure report is filed by such candidate and any candidate committee under the candidate's control before such candidate takes office, and such report shall be for the period closing on the day before taking office; and

(3) Not later than the fifteenth day following the close of each calendar quarter.

Notwithstanding the provisions of this subsection, if any committee accepts contributions or makes expenditures in support of or in opposition to a ballot measure or a candidate, and the report required by this subsection for the most recent calendar quarter is filed prior to the fortieth day before the election on the measure or candidate, the committee shall file an additional disclosure report not later than the fortieth day before the election for the period closing on the forty-fifth day before the election.

2. In the case of a ballot measure to be qualified to be on the ballot by initiative petition or referendum petition, or a recall petition seeking to remove an incumbent from office, disclosure reports relating to the time for filing such petitions shall be made as follows:

(1) In addition to the disclosure reports required to be filed pursuant to subsection 1 of this section the treasurer of a committee, other than a continuing committee, supporting or opposing a petition effort to qualify a measure to appear on the ballot or to remove an incumbent from office shall file an initial disclosure report fifteen days after the committee begins the process of raising or spending money. After such initial report, the committee shall file quarterly disclosure reports as required by subdivision (3) of subsection 1 of this section until such time as the reports required by subdivisions (1) and (2) of subsection 1 of this section are to be filed. In addition the committee shall file a second disclosure report no later than the fifteenth day after the deadline date for submitting such petition. The period covered in the initial report shall begin on the day

the committee first accepted contributions or made expenditures to support or oppose the petition effort for qualification of the measure and shall close on the fifth day prior to the date of the report;

(2) If the measure has qualified to be on the ballot in an election and if a committee subject to the requirements of subdivision (1) of this subsection is also required to file a preelection disclosure report for such election any time within thirty days after the date on which disclosure reports are required to be filed in accordance with subdivision (1) of this subsection, the treasurer of such committee shall not be required to file the report required by subdivision (1) of this subsection, but shall include in the committee's preelection report all information which would otherwise have been required by subdivision (1) of this subsection.

3. The candidate, if applicable, treasurer or deputy treasurer of a committee shall file disclosure reports pursuant to this section, except for any calendar quarter in which the contributions received by the committee or the expenditures or contributions made by the committee do not exceed five hundred dollars. The reporting dates and periods covered for such quarterly reports shall not be later than the fifteenth day of January, April, July and October for periods closing on the thirty-first day of December, the thirty-first day of March, the thirtieth day of June and the thirtieth day of September. No candidate, treasurer or deputy treasurer shall be required to file the quarterly disclosure report required not later than the fifteenth day of any January immediately following a November election, provided that such candidate, treasurer or deputy treasurer shall file the information required on such quarterly report on the quarterly report to be filed not later than the fifteenth day of April immediately following such November election. Each report by such committee shall be cumulative from the date of the last report. In the case of the continuing committee's first report, the report shall be cumulative from the date of the continuing committee's organization. Every candidate, treasurer or deputy treasurer shall file, at a minimum, the campaign disclosure reports covering the quarter immediately preceding the date of the election and those required by subdivisions (1) and (2) of subsection 1 of this section. A continuing committee shall submit additional reports if it makes aggregate expenditures, other than contributions to a committee, of five hundred dollars or more, within the reporting period at the following times for the following periods:

(1) Not later than the [seventh] **eighth** day before an election for the period closing on the twelfth day before the election;

(2) Not later than forty-eight hours after aggregate expenditures of five hundred dollars or more are made after the twelfth day before the election; and

(3) Not later than the thirtieth day after an election for a period closing on the twenty-fifth day after the election.

4. The reports required to be filed no later than the thirtieth day after an election and any subsequently required report shall be cumulative so as to reflect the total receipts and disbursements of the reporting committee for the entire election campaign in question. The period covered by each disclosure report shall begin on the day after the closing date of the most recent disclosure report filed and end on the closing date for the period covered. If the committee has not previously filed a disclosure report, the period covered begins on the date the committee was formed; except that in the case of a candidate committee, the period covered begins on the date the candidate became a candidate according to the definition of the term candidate in section 130.011.

5. Notwithstanding any other provisions of this chapter to the contrary:

(1) Certain disclosure reports pertaining to any candidate who receives nomination in a primary election and thereby seeks election in the immediately succeeding general election shall not be required in the following cases:

(a) If there are less than fifty days between a primary election and the immediately succeeding general election, the disclosure report required to be filed quarterly; provided that, any other report required to be filed prior to the primary election and all other reports required to be

filed not later than the [seventh] **eighth** day before the general election are filed no later than the final dates for filing such reports;

(b) If there are less than eighty-five days between a primary election and the immediately succeeding general election, the disclosure report required to be filed not later than the thirtieth day after the primary election need not be filed; provided that any report required to be filed prior to the primary election and any other report required to be filed prior to the general election are filed no later than the final dates for filing such reports; and

(2) No disclosure report needs to be filed for any reporting period if during that reporting period the committee has neither received contributions aggregating more than five hundred dollars nor made expenditure aggregating more than five hundred dollars and has not received contributions aggregating more than [two] **three** hundred [fifty] dollars from any single contributor **and if the committee's treasurer files a statement with the appropriate officer that the committee has not exceeded the identified thresholds in the reporting period.** Any contributions received or expenditures made which are not reported because [of] this statement is filed in lieu of a disclosure report shall be included in the next disclosure report filed by the committee. [A report] **This statement shall not be filed in lieu of the report** for two or more consecutive disclosure [quarters] **periods** if either the contributions received or expenditures made in the aggregate during those reporting periods exceed five hundred dollars [and a report]. **This statement shall not be filed [not], in lieu of the report,** later than the thirtieth day after an election if that report would show a deficit of more than one thousand dollars.

6. (1) If the disclosure report required to be filed by a committee not later than the thirtieth day after an election shows a deficit of unpaid loans and other outstanding obligations in excess of five thousand dollars, semiannual supplemental disclosure reports shall be filed with the appropriate officer for each succeeding semiannual period until the deficit is reported in a disclosure report as being reduced to five thousand dollars or less; except that, a supplemental semiannual report shall not be required for any semiannual period which includes the closing date for the reporting period covered in any regular disclosure report which the committee is required to file in connection with an election. The reporting dates and periods covered for semiannual reports shall be not later than the fifteenth day of January and July for periods closing on the thirty-first day of December and the thirtieth day of June;

(2) Committees required to file reports pursuant to subsection 2 or 3 of this section which are not otherwise required to file disclosure reports for an election shall file semiannual reports as required by this subsection if their last required disclosure report shows a total of unpaid loans and other outstanding obligations in excess of five thousand dollars.

7. In the case of a committee which disbands and is required to file a termination statement pursuant to the provisions of section 130.021 with the appropriate officer not later than the tenth day after the committee was dissolved, the candidate, committee treasurer or deputy treasurer shall attach to the termination statement a complete disclosure report for the period closing on the date of dissolution. A committee shall not utilize the provisions of subsection 8 of section 130.021 or the provisions of this subsection to circumvent or otherwise avoid the reporting requirements of subsection 6 or 7 of this section.

8. Disclosure reports shall be filed with the appropriate officer not later than 5:00 p.m. prevailing local time of the day designated for the filing of the report and a report postmarked not later than midnight of the day previous to the day designated for filing the report shall be deemed to have been filed in a timely manner. The appropriate officer may establish a policy whereby disclosure reports may be filed by facsimile transmission.

Approved July 3, 2002

HB 1502 [SS SCS HS HCS HB 1502 & 1821]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Sets requirements for insurance companies that use credit reports for underwriting decisions.

AN ACT to amend chapter 375, RSMo, by adding thereto one new section relating to credit information used in insurance underwriting.

SECTION

A. Enacting clause.

375.918. Underwriting, use of credit scores, no adverse action permitted — definitions — disclosures.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 375, RSMo, is amended by adding thereto one new section, to be known as section 375.918, to read as follows:

375.918. UNDERWRITING, USE OF CREDIT SCORES, NO ADVERSE ACTION PERMITTED — DEFINITIONS — DISCLOSURES. — 1. As used in this section, the following terms mean:

(1) "Adverse action", a denial, nonrenewal of, or a reduction in the amount of benefits payable or types of coverages under any contract, existing or applied for, in connection with the underwriting of insurance. An offer by an insurer to write a contract through an affiliated insurer does not constitute an adverse action;

(2) "Contract", any automobile insurance policy as defined in section 379.110, RSMo, or any property insurance policy as defined in section 375.001, including such a policy on a mobile home or residential condominium unit or a policy of renters' or tenants' insurance. Contract shall not include any policy of mortgage insurance or commercial insurance;

(3) "Credit report", any written or electronic communication of any information by a consumer reporting agency that:

(a) Bears on a person's credit worthiness, credit standing, or credit capacity; and

(b) Is used or collected wholly or partly to serve as a factor in the underwriting of a contract;

(4) "Credit scoring entity", any entity that is involved in creating, compiling, or providing insurance credit scores;

(5) "Insurance credit score", a numerical representation of the insurance risk a person presents using the person's attributes derived from a credit report or credit information in a formula to assess insurance risk on an actuarial or statistical basis;

(6) "Insurer", any insurance company or entity that offers a contract;

(7) "Underwriting", the selection of the risk that will be assumed by the insurer on a contract, and specifically the decision whether to accept, deny, renew, nonrenew, reduce, or increase the amount of benefits payable or types of coverages under the contract.

2. An insurer using a credit report or insurance credit score as a factor in underwriting shall not take an adverse action based on such factor without consideration of another noncredit related underwriting factor.

3. No insurer shall take an adverse action against an applicant or insured based on inability to compute an insurance credit score without consideration of another underwriting factor, unless the insurer can justify the credibility that the lack of an insurance credit score has in underwriting to the director of insurance.

4. An insurer using a credit report or insurance credit score as a factor in underwriting a contract shall disclose at the time of the original application for the contract or on the application itself that the insurer may gather credit information.

5. An insurer using a credit report or insurance credit score as a factor in underwriting of a contract shall not take an adverse action on such contract based on information that is the subject of a written dispute between the policyholder or applicant and a consumer reporting agency, as noted in such person's credit report, until such dispute has reached final determination in accordance with the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq. In the event that information is the subject of a written dispute under this subsection, the sixty-day period provided by section 375.002 or section 379.110, RSMo, shall be extended until fifteen days after the dispute reaches final determination. Nothing in this subsection shall be construed to require any consumer reporting agency, as defined by the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq., to include any information on a credit report beyond the extent required by the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq.

6. If the use of a credit report or insurance credit score on a contract results in an adverse action, the insurer shall provide the policyholder or applicant:

(1) Notice that a credit report or insurance credit score adversely affected the underwriting of the contract;

(2) The name, address, and telephone number of the consumer credit reporting agency that furnished the credit information, in compliance with the notice requirements of the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq.;

(3) Notice of the right to obtain a free credit report from the consumer credit reporting agency within sixty days; and

(4) Notice of the right to lodge a dispute with the consumer credit reporting agency to have any erroneous information corrected in accordance with the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq.

7. Within thirty days from the date the insurer provides notice of an adverse action pursuant to subdivision (1) of subsection 6 of this section, the applicant or insured may in writing request from the insurer a statement of reasons for such action. For purposes of determining the thirty-day period, the notice of an adverse action is deemed received three days after mailing. The statement of reasons shall be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without further inquiry. An insurer may provide an explanation of significant characteristics of the credit history that may have impacted such person's insurance credit score to meet the requirements of this subsection. Standardized credit explanations provided by credit scoring entities comply with this subsection.

8. If an insurer bases an adverse action in part on a credit report or insurance credit score, the applicant or insured may within thirty days of such adverse action make a written request for re-underwriting following any correction relating to the credit report or insurance credit score.

9. An insurer may obtain and use a current credit report or insurance credit score on new business or renewal contracts, but shall not take an adverse action with respect to renewal contracts based upon such credit report or insurance credit score until or after the third anniversary date of the initial contract.

10. Insurance inquiries shall not directly or indirectly be used as a negative factor in any insurance credit scoring formula or in the use of a credit report in underwriting.

11. Nothing in this section shall be construed as superceding the provisions of section 375.002 and section 379.114, RSMo. Nothing in this section shall be construed as prohibiting any insurer from using credit information in determining whether to offer a policyholder or applicant the option to finance or establish a payment plan for the

payment of any premium for a contract. Nothing in this section shall apply to any entity not acting as an insurer or credit scoring entity as defined in subsection 1 of this section.

12. No credit scoring entity shall provide or sell to any party, other than the insurer, its insurance company affiliates or holding companies, and the producer from whom the inquiry was generated, data or lists that include any information that in whole or in part is submitted in conjunction with credit inquiries about consumers. Such information includes, but is not limited to, expiration dates, information that may identify time periods during which a consumer's insurance may expire, or other nonpublic personal information as defined under the Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to 6809. The provisions of this subsection shall not preclude the exchange of information specifically authorized under the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq., the Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to 6809 and other applicable federal law. The provisions of this subsection shall not apply to data disclosed in connection with a proposed or actual sale, merger, transfer or exchange of all or a portion of an insurer's or producer's business or operating unit, including but not limited to, the sale of a portfolio of contracts, if such disclosure concerns solely consumers of the business or unit and such disclosure is not the primary reason for the sale, merger, transfer or exchange.

13. A violation of this section may be enforceable under section 374.280, RSMo.

14. The provisions of this section shall apply to all contracts entered into on or after July 1, 2003.

Approved July 12, 2002

HB 1508 [SCS HB 1508]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises various provisions relating to outdoor advertising along state highways and interstates.

AN ACT to repeal sections 226.540, 226.550, 226.573, 226.580, and 226.585, RSMo, and to enact in lieu thereof five new sections relating to highway beautification.

SECTION

- A. Enacting clause.
- 226.540. Signs permitted on certain highways — lighting restrictions — size, location — zones — specifications.
- 226.550. Permits, fees for, exemption — permits to be issued for existing signs, exceptions — biennial inspection fees, collection, deposit, exceptions — permit to erect sign lapses, when.
- 226.573. Rulemaking — new technology in outdoor advertising.
- 226.580. Unlawful signs defined — removal authorized — notice — owner may proceed, how — removal costs, how paid — review of order, how — order of removal — reimbursement to owner, when.
- 226.585. Vegetation along right-of-way, cutting of — transportation department, duties.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 226.540, 226.550, 226.573, 226.580, and 226.585, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 226.540, 226.550, 226.573, 226.580, and 226.585, to read as follows:

226.540. SIGNS PERMITTED ON CERTAIN HIGHWAYS — LIGHTING RESTRICTIONS — SIZE, LOCATION — ZONES — SPECIFICATIONS. — Notwithstanding any other provisions of

sections 226.500 to 226.600, outdoor advertising shall be permitted within six hundred and sixty feet of the nearest edge of the right-of-way of [any interstate or primary highway] **highways located on the interstate, federal-aid primary system as it existed on June 1, 1991, or the national highway system as amended** in areas zoned industrial, commercial or the like and in unzoned commercial and industrial areas as defined in this section, subject to the following regulations which are consistent with customary use in this state:

(1) Lighting:

(a) No revolving or rotating beam or beacon of light that simulates any emergency light or device shall be permitted as part of any sign. No flashing, intermittent, or moving light or lights will be permitted except scoreboards and other illuminated signs designating public service information, such as time, date, or temperature, or similar information, will be allowed; **tri-vision, projection, and other changeable message signs shall be allowed subject to Missouri highway and transportation commission regulations;**

(b) External lighting, such as floodlights, thin line and gooseneck reflectors are permitted, provided the light source is directed upon the face of the sign and is effectively shielded so as to prevent beams or rays of light from being directed into any portion of the main traveled way of the federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System and the lights are not of such intensity so as to cause glare, impair the vision of the driver of a motor vehicle, or otherwise interfere with a driver's operation of a motor vehicle;

(c) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures, an official traffic sign, device, or signal;

(2) Size of signs:

(a) The maximum area for any one sign shall be eight hundred square feet with a maximum height of thirty feet and a maximum length of seventy-two feet, inclusive of border and trim but excluding the base or apron, supports, and other structural members. The area shall be measured as established **herein and** in rules promulgated by the commission. In determining the size of a **conforming or nonconforming** sign structure, temporary cutouts and extensions installed for the length of a specific display contract shall not be [included in calculating] **considered a substantial increase to** the size of the permanent display; provided the actual square footage of such temporary cutouts or extensions may not exceed thirty-three percent of the permanent display area. **Signs erected in accordance with the provisions of sections 226.500 to 226.600 prior to the effective date of this provision which fail to meet the requirements of this provision shall be deemed legally nonconforming as defined herein;**

(b) The maximum size limitations shall apply to each side of a sign structure, and signs may be placed back to back, double faced, or in V-type construction with not more than two displays to each facing, but such sign structure shall be considered as one sign;

(c) After August 28, 1999, no new sign structure shall be erected in which two or more displays are stacked one above the other. Stacked structures existing on or before August 28, 1999, in accordance with sections 226.500 to 226.600 shall [not] be deemed **legally nonconforming** [for failure to meet the requirements of this section until such sign's structure is modified, repaired, replaced or rebuilt] **and may be maintained in accordance with the provisions of 226.500 to 226.600.** Structures displaying more than one display on a horizontal basis shall be allowed, provided that total display areas do not exceed the maximum allowed square footage for a sign structure pursuant to the provisions of paragraph (a) of subdivision (2) of this section;

(3) Spacing of signs:

(a) **On all** interstate highways [and], freeways [on the], **and nonfreeway** federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System:

a. No sign structure shall be erected within [five hundred] **one thousand four hundred** feet of an existing sign on the same side of the highway;

b. Outside of incorporated municipalities, no structure may be located adjacent to or within five hundred feet of an interchange, intersection at grade, or safety rest area. Such five hundred feet shall be measured from the beginning or ending of the pavement widening at the exit from or entrance to the main traveled way. For purpose of this subparagraph, the term "incorporated municipalities" shall include "urban areas", except that such "urban areas" shall not be considered "incorporated municipalities" if it is finally determined that such would have the effect of making Missouri be in noncompliance with the requirements of Title 23, United States Code, Section 131;

(b) [Nonfreeway federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System:

a. Outside incorporated municipalities, no structure shall be erected within five hundred feet of an existing sign on the same side of the highway. Sign structures existing prior to August 28, 1999, which complied with the requirements of this section when erected shall not be deemed nonconforming for failure to comply with the spacing provisions of this section until such sign's structure is modified, repaired, replaced or rebuilt;

b. Within incorporated municipalities, no structure shall be erected within five hundred feet of an existing sign. Sign structures existing prior to August 28, 1999, which complied with the requirements of this section when erected shall not be deemed nonconforming for failure to comply with the spacing provisions of this section until such sign's structure is modified, repaired, replaced or rebuilt;

(c) The spacing between structure provisions of subdivision (3) of this section do not apply to signs which are separated by buildings, natural surroundings, or other obstructions in such manner that only one sign facing located within such distance is visible at any one time. Directional or other official signs or those advertising the sale or lease of the property on which they are located, or those which advertise activities on the property on which they are located, including products sold, shall not be counted, nor shall measurements be made from them for the purpose of compliance with spacing provisions;

[(d)] (c) No sign shall be located in such manner as to obstruct or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device or obstruct or physically interfere with a motor vehicle operator's view of approaching, merging, or intersecting traffic;

[(e)] (d) The measurements in this section shall be the minimum distances between outdoor advertising sign structures measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and shall apply only to outdoor advertising sign structures located on the same side of the highway involved;

(4) As used in this section, the words "unzoned commercial and industrial land" shall be defined as follows: that area not zoned by state or local law or ordinance and on which there is located one or more permanent structures used for a commercial business or industrial activity or on which a commercial or industrial activity is actually conducted together with the area along the highway extending outwardly [six hundred] **seven hundred fifty** feet from and beyond the edge of such activity. All measurements shall be from the outer edges of the regularly used improvements, buildings, parking lots, landscaped, storage or processing areas of the commercial or industrial activity and along and parallel to the edge of the pavement of the highway. [On nonfreeway federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System, where there is an unzoned commercial or industrial area on one side of the road as described in this section, the term "unzoned commercial or industrial land" shall also include those lands directly opposite

on the other side of the highway to the extent of the same dimensions.] Unzoned land shall not include:

(a) Land on the opposite side of [an interstate or freeway primary] **the highway from an unzoned commercial or industrial area as defined in this section and located adjacent to highways located on the interstate, federal-aid primary system as it existed on June 1, 1991, or the national highway system as amended, unless the opposite side of the highway qualifies as a separate unzoned commercial or industrial area;**

(b) Land zoned by a state or local law, regulation, or ordinance;

[(c) Land on the opposite side of a nonfreeway primary highway which is determined by the proper state authority to be a scenic area;]

(5) "Commercial or industrial activities" as used in this section means those which are generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following shall be considered commercial or industrial:

(a) Outdoor advertising structures;

(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including seasonal roadside fresh produce stands;

(c) Transient or temporary activities;

(d) Activities more than six hundred sixty feet from the nearest edge of the right-of-way or not visible from the main traveled way;

(e) Activities conducted in a building principally used as a residence;

(f) Railroad tracks and minor sidings;

(6) The words "unzoned commercial or industrial land" shall also include all areas not specified in this section which constitute an "unzoned commercial or industrial area" within the meaning of the present Section 131 of Title 23 of the United States Code, or as such statute may be amended. As used in this section, the words "zoned commercial or industrial area" shall refer to those areas zoned commercial or industrial by the duly constituted zoning authority of a municipality, county, or other lawfully established political subdivision of the state, or by the state **and which is within seven hundred fifty feet of one or more permanent commercial or industrial activities.** [Unzoned] Commercial or industrial activities as used in this section are limited to those activities:

(a) In which the primary use of the property is commercial or industrial in nature;

(b) Which are clearly visible from the highway and recognizable as a commercial business;

(c) Which are permanent as opposed to temporary or transitory and of a nature that would customarily be restricted to commercial or industrial zoning in areas comprehensively zoned; and

(d) In determining whether the primary use of the property is commercial or industrial pursuant to paragraph (a) of this subdivision, the state highways and transportation commission shall consider the following factors:

a. The presence of a permanent and substantial building;

b. The existence of utilities and [required] **local** business licenses, if any, for the commercial activity;

c. On-premise signs or other identification;

d. [Communication with the business owner that can be accomplished at regular intervals either in person, by telephone, by fax machine, by electronic mail or by some other business means] **The presence of an owner or employee on the premises for at least twenty hours per week;**

(7) In zoned commercial and industrial areas, whenever a state, county or municipal zoning authority has adopted laws or ordinances which include regulations with respect to the size, lighting and spacing of signs, which regulations are consistent with the intent of sections 226.500 to 226.600 and with customary use, then from and after the effective date of such regulations, and so long as they shall continue in effect, the provisions of this section shall not apply to the erection of signs in such areas. Notwithstanding any other provisions of this section, after August 28,

1992, with respect to any outdoor advertising which is regulated by the provisions of subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527:

(a) No county or municipality shall issue a permit to allow a regulated sign to be newly erected without a permit issued by the state highways and transportation commission;

(b) A county or municipality may charge a reasonable one-time permit or inspection fee to assure compliance with local wind load and electrical requirements when the sign is first erected, but a county or municipality may not charge a permit or inspection fee for such sign after such initial fee. Changing the display face or performing routine maintenance shall not be considered as erecting a new sign;

(8) The state highways and transportation commission on behalf of the state of Missouri, may seek agreement with the Secretary of Transportation of the United States under Section 131 of Title 23, United States Code, as amended, that sections 226.500 to 226.600 are in conformance with that Section 131 and provides effective control of outdoor advertising signs as set forth therein. If such agreement cannot be reached and the penalties under subsection (b) of Section 131 are invoked, the attorney general of this state shall institute proceedings described in subsection (1) of that Section 131.

226.550. PERMITS, FEES FOR, EXEMPTION — PERMITS TO BE ISSUED FOR EXISTING SIGNS, EXCEPTIONS — BIENNIAL INSPECTION FEES, COLLECTION, DEPOSIT, EXCEPTIONS — PERMIT TO ERECT SIGN LAPSES, WHEN. — 1. No outdoor advertising which is regulated by subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527 shall be erected or maintained on or after August 28, 1992, without a one-time permanent permit issued by the state highways and transportation commission. Application for permits shall be made to the state highways and transportation commission on forms furnished by the commission and shall be accompanied by a permit fee of [twenty-eight dollars and fifty cents] **two hundred dollars** for all signs; except that, tax-exempt religious organizations as defined in subdivision (11) of section 313.005, RSMo, service organizations as defined in subdivision (12) of section 313.005, RSMo, veterans' organizations as defined in subdivision (14) of section 313.005, RSMo, and fraternal organizations as defined in subdivision (8) of section 313.005, RSMo, shall be granted a permit for signs less than seventy-six square feet without payment of the fee. In the event a permit holder fails to erect a sign structure within twenty-four months of issuance, said permit shall expire and a new permit must be obtained prior to any construction.

2. No outdoor advertising which is regulated by subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527 which was erected prior to August 28, 1992, shall be maintained without a one-time permanent permit for outdoor advertising issued by the state highways and transportation commission. If a one-time permanent permit was issued by the state highways and transportation commission after March 30, 1972, and before August 28, 1992, it is not necessary for a new permit to be issued. If a one-time permanent permit was not issued for a lawfully erected and lawfully existing sign by the state highways and transportation commission after March 30, 1972, and before August 28, 1992, a one-time permanent permit shall be issued by the commission for each sign which is lawfully in existence on the day prior to August 28, 1992, upon application and payment of a permit fee of [twenty-eight dollars and fifty cents] **two hundred dollars**. All applications and fees due pursuant to this subsection shall be submitted before December 31, 1992.

3. For purposes of sections 226.500 to 226.600, the terminology "structure lawfully in existence" or "lawfully existing" sign or outdoor advertising shall, nevertheless, include the following signs unless the signs violate the provisions of subdivisions (3) to (7) of subsection 1 of section 226.580:

(1) All signs erected prior to January 1, 1968;

(2) All signs erected before March 30, 1972, but on or after January 1, 1968, which would otherwise be lawful but for the failure to have a permit for such signs prior to March 30, 1972, except that any sign or structure which was not in compliance with sizing, spacing, lighting, or

location requirements of sections 226.500 to 226.600 as the sections appeared in the revised statutes of Missouri 1969, wheresoever located, shall not be considered a lawfully existing sign or structure;

(3) All signs erected after March 30, 1972, which are in conformity with sections 226.500 to 226.600[.];

(4) All signs erected in compliance with sections 226.500 to 226.600 prior to the effective date of this act.

4. On or after August 28, 1992, the state highways and transportation commission may, in addition to the fees authorized by subsections 1 and 2 of this section, collect a biennial inspection fee every two years after a state permit has been issued. Biennial inspection fees due after August 28, [1992,] **2002, and prior to August 28, 2003**, shall be [twenty-eight dollars and fifty cents] **fifty dollars. Biennial inspection fees due on or after August 28, 2003, shall be seventy-five dollars. Biennial inspection fees due on or after August 28, 2004, shall be one hundred dollars;** except that, tax-exempt religious organizations as defined in subdivision (11) of section 313.005, RSMo, service organizations as defined in subdivision (12) of section 313.005, RSMo, veterans' organizations as defined in subdivision (14) of section 313.005, RSMo, and fraternal organizations as defined in subdivision (8) of section 313.005, RSMo, shall not be required to pay such fee.

5. [In order to effect collection from a sign owner of delinquent and unpaid biennial inspection fees which are payable pursuant to this section, or delinquent removal costs pursuant to section 226.580, the state highways and transportation commission may require any delinquent fees to be paid before a permit is issued to the delinquent sign owner for any new sign.] **In order to effect the more efficient collection of biennial inspection fees, the state highways and transportation commission is encouraged to adopt a renewal system in which all permits in a particular county are renewed in the same month. In conjunction with the conversion to this renewal system, the state highways and transportation commission is specifically authorized to prorate renewal fees based on changes in renewal dates.**

6. Sign owners or owners of the land on which signs are located must apply to the state highways and transportation commission for biennial inspection and submit any fees as required by this section on or before December 31, 1992. For a permitted sign which does not have a permit, a permit shall be issued at the time of the next biennial inspection.

7. The state highways and transportation commission shall deposit all fees received for outdoor advertising permits and inspection fees in the state road fund, keeping a separate record of such fees, and the same may be expended by the commission in the administration of sections 226.500 to 226.600.

226.573. RULEMAKING — NEW TECHNOLOGY IN OUTDOOR ADVERTISING. — The state highways and transportation commission is authorized to adopt administrative rules regulating the use of new technology in outdoor advertising as allowed under federal regulations for federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated pursuant to the authority delegated in this section shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after [August 28, 1999] **the effective date of this section**, shall be invalid and void.

226.580. UNLAWFUL SIGNS DEFINED — REMOVAL AUTHORIZED — NOTICE — OWNER MAY PROCEED, HOW — REMOVAL COSTS, HOW PAID — REVIEW OF ORDER, HOW — ORDER OF REMOVAL — REIMBURSEMENT TO OWNER, WHEN. — 1. The following outdoor advertising within six hundred sixty feet of the right-of-way of interstate or primary highways is deemed unlawful and shall be subject to removal:

(1) Signs erected after March 30, 1972, contrary to the provisions of sections 226.500 to 226.600 and signs erected on or after January 1, 1968, but before March 30, 1972, contrary to the sizing, spacing, lighting, or location provisions of sections 226.500 to 226.600 as they appeared in the revised statutes of Missouri 1969; or

(2) Signs for which a permit is not obtained or a biennial inspection fee is [not paid as prescribed in sections 226.500 to 226.600] **more than twelve months' past due**; or

(3) Signs which are obsolete; (Signs shall not be considered obsolete solely because they temporarily do not carry an advertising message.) or

(4) Signs that are not in good repair; or

(5) Signs not securely affixed to a substantial structure; or

(6) Signs which attempt or appear to attempt to regulate, warn, or direct the movement of traffic or which interfere with, imitate, or resemble any official traffic sign, signal, or device; or

(7) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

2. Signs erected after August 13, 1976, beyond six hundred sixty feet of the right-of-way outside of urban areas, visible from the main traveled way of the interstate or primary system and erected with the purpose of their message being read from such traveled way, except those signs described in subdivisions (1) and (2) of section 226.520 are deemed unlawful and shall be subject to removal.

3. If a sign is deemed to be unlawful for any of the reasons set out in subsections 1 [and 2] **through 7** of this section, the state highways and transportation commission shall give notice either by certified mail or by personal service to the owner or occupant of the land on which advertising believed to be unlawful is located and the owner of the outdoor advertising structure. Such notice shall specify the basis for the alleged unlawfulness, shall specify the remedial action which is required to correct the unlawfulness and shall advise that a failure to take the remedial action within [thirty] **sixty** days will result in the sign being removed. Within [thirty] **sixty** days after receipt of the notice as to him, the owner of the land or of the structure may remove the sign or may take the remedial action specified or may file an action for administrative review pursuant to the provisions of sections 536.067 to 536.090, RSMo, to review the action of the state highways and transportation commission, or he may proceed under the provisions of section 536.150, RSMo, as if the act of the highways and transportation commission was one not subject to administrative review. Notwithstanding any other provisions of sections 226.500 to 226.600, no outdoor advertising structure erected prior to August 28, 1992, defined as a "structure lawfully in existence" or "lawfully existing", by subdivision (1), (2) or (3) of subsection 2 of section 226.550, shall be removed for failure to have a permit until a notice, as provided in this section, has been issued which shall specify failure to obtain a permit or pay a biennial inspection fee as the basis for alleged unlawfulness, and shall advise that failure to take the remedial action of applying for a permit or paying the inspection fee within [thirty] **sixty** days will result in the sign being removed. **Signs for which biennial inspection fees are delinquent shall not be removed unless the fees are more than twelve months' past due and actual notice of the delinquency has been provided to the sign owner.** Upon application made within the [thirty-day] **sixty-day** period as provided in this section, and accompanied by the fee prescribed by section 226.550, together with any inspection fees that would have been payable if a permit had been timely issued, the state highways and transportation commission shall issue a one-time permanent permit for such sign. Such signs with respect to which permits are so issued are hereby determined by the state of Missouri to have been lawfully erected within the meaning of "lawfully erected" as that term is used in Title 23, United States Code, section 131(g), as

amended, and shall only be removed upon payment of just compensation, except that the issuance of permits shall not entitle the owners of such signs to compensation for their removal if it is finally determined that such signs are not "lawfully erected" as that term is used in section 131(g) of Title 23 of the United States Code.

4. If **actual** notice as provided in this section is given and neither the remedial action specified is taken nor an action for review is filed, or if an action for review is filed and is finally adjudicated in favor of the state highways and transportation commission, the state highways and transportation commission shall have authority to immediately remove the unlawful outdoor advertising. The owner of the structure shall be liable for the costs of such removal. The commission shall incur no liability for causing this removal, except for damage caused by negligence of the commission, its agents or employees.

5. If notice as provided in this section is given and an action for review is filed under the provisions of section 536.150, RSMo, or if administrative review pursuant to the provisions of sections 536.067 to 536.090, RSMo, is filed and the state highways and transportation commission enters its final decision and order to remove the outdoor advertising structure, the advertising message contained on the structure shall be removed or concealed by the owner of the structure, at the owner's expense, until the action for judicial review is finally adjudicated. If the owner of the structure refuses or fails to remove or conceal the advertising message, the commission may remove or conceal the advertising message and the owner of the structure shall be liable for the costs of such removal or concealment. The commission shall incur no liability for causing the removal or concealment of the advertising message while an action for review is pending, except if the owner finally prevails in its action for judicial review, the commission will compensate the owner at the rate the owner is actually receiving income from the advertiser pursuant to written lease from the time the message is removed until the judicial review is final.

6. Any signs advertising tourist oriented type business will be the last to be removed.

7. Any signs prohibited by section 226.527 which were lawfully erected prior to August 13, 1976, shall be removed pursuant to section 226.570.

8. The transportation department shall reimburse to the lawful owners of any said nonconforming signs that are now in existence as defined in sections 226.540, 226.550, 226.580 and 226.585, said compensation calculated and/or based on a fair market value and not mere replacement cost.

226.585. VEGETATION ALONG RIGHT-OF-WAY, CUTTING OF — TRANSPORTATION DEPARTMENT, DUTIES. — The state transportation department may cut and trim any vegetation on the highway right-of-way which interferes with the effectiveness of or obscures a lawfully erected billboard, or the highways and transportation commission shall promulgate reasonable rules and regulations to permit the cutting and trimming of such vegetation on the highway or right-of-way by the owner of such billboard. **The right to a vegetation permit by an outdoor advertising permit holder shall be issued in accordance with the current rules and regulations promulgated by the highways and transportation commission and shall not be denied without good cause.** Such rules and regulations shall be promulgated within twelve months after August 28, 1992, or the commission shall suspend the collection of the biennial inspection fees prescribed by section 226.550 until such rules are promulgated, and such rules may include authority to charge a reasonable fee for such [permission] **permit**. This section shall not apply if its implementation would have the effect of making Missouri be in noncompliance with requirements of Title 23, United States Code, section 131.

Approved July 11, 2002

HB 1515 [HB 1515]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises section awarding honorary high school diplomas to certain veterans.

AN ACT to repeal section 160.360, RSMo, and to enact in lieu thereof one new section relating to the awarding of honorary high school diplomas to certain civilian prisoners of war and veterans.

SECTION

A. Enacting clause.

160.360. Operation recognition, honorary high school diplomas awarded to certain veterans and civilian POWs, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 160.360, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.360, to read as follows:

160.360. OPERATION RECOGNITION, HONORARY HIGH SCHOOL DIPLOMAS AWARDED TO CERTAIN VETERANS AND CIVILIAN POWS, WHEN. — 1. The department of elementary and secondary education, with the cooperation of the Missouri veterans' commission, shall develop and administer a program to be known as "Operation Recognition". The purpose of the program is to award honorary high school diplomas to **civilian prisoners of war (POWs) and to World War I, World War II and Korean War veterans** who left high school prior to graduation to enter United States military service. The department and commission shall jointly develop an application procedure, distribute applications and publicize the program to school districts, accredited nonpublic schools, veterans' organizations, and state, regional and local media.

2. All **civilian POWs who are residents or former residents of the state of Missouri and all** honorably discharged World War I, World War II and Korean War veterans who are residents or former residents of the state of Missouri, who served in the United States military during World War I, World War II or the Korean War, and who did not return to school and complete their education after the war shall be eligible to receive a diploma. Diplomas may be issued posthumously.

3. Upon approval of an application, the department shall issue an honorary high school diploma for **an eligible civilian POW or** an eligible veteran. The diploma shall also include a statement specifying that the diploma is awarded in recognition of military service experiences and civic duty responsibilities. The diploma shall indicate the **civilian POW's or** veteran's school of attendance. The department and commission shall work together to provide school districts, schools, communities and veterans' organizations with information about hosting a diploma ceremony on or around Veterans Day. The diploma shall be mailed to the **civilian POW or** veteran or, if the **civilian POW or** veteran is deceased, to the **civilian POW's or** veteran's family.

Approved June 12, 2002

HB 1518 [HB 1518]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Alters the language for the statute controlling certain insurance company investments.

AN ACT to repeal section 376.307, RSMo, and to enact in lieu thereof one new section relating to life insurance company investments.

SECTION

A. Enacting clause.

376.307. Limits on investments which are not eligible for state deposit.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 376.307, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 376.307, to read as follows:

376.307. LIMITS ON INVESTMENTS WHICH ARE NOT ELIGIBLE FOR STATE DEPOSIT. —

1. Notwithstanding any direct or implied prohibitions in chapter 375 or 376, RSMo, the capital, reserve and surplus funds of all life insurance companies of whatever kind and character organized or doing business under chapter 375 or 376, RSMo, may be invested in any investments which do not otherwise qualify under any other provision of chapter 375 or 376, RSMo, provided, however, the investments authorized by this section are not eligible for deposit with the department of insurance and shall be subject to all the limitations set forth in subsection 2.

2. No such life insurance company shall [invest in] **own** such investments in an amount in excess of the following limitations, to be based upon its admitted assets, capital and surplus as shown in its last annual statement [preceding the date of the acquisition of such investment, all as] filed with the director of the department of insurance of the state of Missouri:

(1) The aggregate amount of all such investments under this section shall not exceed the lesser of (a) eight percent of its admitted assets or (b) the amount of its capital and surplus in excess of nine hundred thousand dollars; and

(2) The amount of any one such investment under this section shall not exceed one percent of its admitted assets.

3. If, subsequent to its acquisition hereunder, any such investment shall become specifically authorized or permitted under any other section contained in chapter 375 or 376, RSMo, any such company may thereafter consider such investment as held under such other applicable section and not under this section.

Approved July 3, 2002

HB 1519 [HB 1519]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates April 19th of each year as "Patriots Day".

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of patriots day.

SECTION

- A. Enacting clause.
9.115. Patriots Day, date of — how observed.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.115, to read as follows:

9.115. PATRIOTS DAY, DATE OF — HOW OBSERVED. — April nineteenth of every year shall be known and designated as "Patriots Day". It shall be a day on which to commemorate the day of the "shot heard 'round the world" and the beginning of the American Revolution. The teachers and students of the schools of this state shall observe the day with appropriate exercises. All citizens of this state are requested to devote some portion of patriots day to solemn contemplation on the selfless sacrifice made by those who fought and gave their lives for our nation's independence.

Approved July 3, 2002

HB 1532 [SCS HS HCS HB 1532]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises the provisions of dram shop liability by providing that the sale of liquor to persons under 21 or to intoxicated persons must be knowing and proven beyond a reasonable doubt.

AN ACT to repeal section 537.053, RSMo, relating to dram shop liability, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

- A. Enacting clause.
375.1730. Dram shop liability coverage, costs reported to department of insurance — rates.
537.053. Sale of alcoholic beverage may be proximate cause of personal injuries or death — requirements — (dram shop law).

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 537.053, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 375.1730 and 537.053, to read as follows:

375.1730. DRAM SHOP LIABILITY COVERAGE, COSTS REPORTED TO DEPARTMENT OF INSURANCE — RATES. — Any insurance company that sells liability insurance which provides coverage for dram shop liability as described in section 537.053, RSMo, shall report all costs associated with such coverages to the department of insurance. The rates for such coverage shall be governed pursuant to section 379.889, RSMo.

537.053. SALE OF ALCOHOLIC BEVERAGE MAY BE PROXIMATE CAUSE OF PERSONAL INJURIES OR DEATH — REQUIREMENTS — (DRAM SHOP LAW). — 1. Since the repeal of the Missouri Dram Shop Act in 1934 (Laws of 1933-34, extra session, page 77), it has been and

continues to be the policy of this state to follow the common law of England, as declared in section 1.010, RSMo, to prohibit dram shop liability and to follow the common law rule that furnishing alcoholic beverages is not the proximate cause of injuries inflicted by intoxicated persons.

2. [The legislature hereby declares that this section shall be interpreted so that the holdings in cases such as Carver v. Schafer, 647 S.W.2d 570 (Mo. App. 1983); Sampson v. W. F. Enterprises, Inc., 611 S.W.2d 333 (Mo. App. 1980); and Nesbitt v. Westport Square, Ltd., 624 S.W.2d 519 (Mo. App. 1981) be abrogated in favor of prior judicial interpretation finding the consumption of alcoholic beverages, rather than the furnishing of alcoholic beverages, to be the proximate cause of injuries inflicted upon another by an intoxicated person.

3.] Notwithstanding [subsections] **subsection 1** [and 2] of this section, a cause of action may be brought by or on behalf of any person who has suffered personal injury or death against any person licensed to sell intoxicating liquor by the drink for consumption on the premises [who, pursuant to section 311.310, RSMo, has been convicted, or has received a suspended imposition of the sentence arising from the conviction, of the sale of intoxicating liquor to a person under the age of twenty-one years or an obviously intoxicated person if the sale of such intoxicating liquor is the proximate cause of the personal injury or death sustained by such person.] **when it is proven by clear and convincing evidence that the seller knew or should have known that intoxicating liquor was served to a person under the age of twenty-one years or knowingly served intoxicating liquor to a visibly intoxicated person.**

3. For purposes of this section, a person is "visibly intoxicated" when inebriated to such an extent that the impairment is shown by significantly uncoordinated physical action or significant physical dysfunction. A person's blood alcohol content does not constitute prima facie evidence to establish that a person is visibly intoxicated within the meaning of this section, but may be admissible as relevant evidence of the person's intoxication.

4. Nothing in this section shall be interpreted to provide a right of recovery to a person who suffers injury or death proximately caused by the person's voluntary intoxication unless the person is under the age of twenty-one years. No person over the age of twenty-one years or their dependents, personal representative, and heirs may assert a claim for damages for personal injury or death against a seller of intoxicating liquor by the drink for consumption on the premises arising out of the person's voluntary intoxication.

5. In an action brought pursuant to subsection 2 of this section alleging the sale of intoxicating liquor by the drink for consumption on the premises to a person under the age of twenty-one years, proof that the seller or the seller's agent or employee demanded and was shown a driver's license or official state or federal personal identification card, appearing to be genuine and showing that the minor was at least twenty-one years of age, shall be relevant in determining the relative fault of the seller or seller's agent or employee in the action.

6. No employer may discharge his or her employee for refusing service to a visibly intoxicated person.

Approved July 11, 2002

HB 1537 [SCS HB 1537]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows debt to offset the value of an estate for purposes of application of small estate administration procedures.

AN ACT to repeal sections 214.330 and 473.097, RSMo, relating to estates and trusts, and to enact in lieu thereof three new sections relating to the same subject.

SECTION

A. Enacting clause.

214.330. Endowed care fund held in trust or segregated account — requirements — duties of trustee or independent investment advisor — operator's duties — endowed care fund agreement.

362.011. Trust business not engaged in, when — prohibition on use of words "trust company", when.

473.097. Small estate — distribution of assets without letters, when — affidavit — procedure — fee.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 214.330 and 473.097, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 214.330, 362.011 and 473.097, to read as follows:

214.330. ENDOWED CARE FUND HELD IN TRUST OR SEGREGATED ACCOUNT — REQUIREMENTS — DUTIES OF TRUSTEE OR INDEPENDENT INVESTMENT ADVISOR — OPERATOR'S DUTIES — ENDOWED CARE FUND AGREEMENT. — 1. The endowed care fund required by sections 214.270 to 214.410 shall be permanently set aside in trust or in accordance with the provisions of subsection 2 of this section. The trustee of the endowed care trust shall be a state- or federally chartered financial institution authorized to exercise trust powers in Missouri and located in this state. The income from the endowed care fund shall be distributed to the cemetery operator at least annually or in other convenient installments. The cemetery operator shall have the duty and responsibility to apply the income to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the endowed care fund shall have been established and not for any other purpose. The principal of such funds shall be kept intact and appropriately invested by the trustee, **or the independent investment advisor. An endowed care trust agreement may provide that when the principal in an endowed care trust exceeds two hundred fifty thousand dollars, investment decisions regarding the principal and undistributed income may be made by a federally registered or Missouri registered independent qualified investment advisor designated by the cemetery owner, relieving the trustee of all liability regarding investment decisions made by such qualified investment advisor.** It shall be the duty of the trustee, **or the investment advisor**, in the investment of such funds to exercise the diligence and care men of ordinary prudence, intelligence and discretion would employ, but with a view to permanency of investment considering probable safety of capital investment, income produced and appreciation of capital investment. The trustee's duties shall be the maintenance of records and the accounting for and investment of moneys deposited by the operator to the endowed care fund. For the purposes of sections 214.270 to 214.410, the trustee **or investment advisor** shall not be deemed to be responsible for the care, the maintenance, or the operation of the cemetery, or for any other matter relating to the cemetery, including, but not limited to, compliance with environmental laws and regulations. With respect to cemetery property maintained by cemetery care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property owned by the cemetery operator and for the opening and closing of all graves, crypts, or niches for human remains in any cemetery property owned by the cemetery operator.

2. If the endowed care cemetery fund is not permanently set aside in a trust fund as required by subsection 1 of this section then the funds shall be permanently set aside in a segregated bank account which requires the signature of the cemetery owner and either the administrator of the office of endowed care cemeteries, or the signature of a licensed practicing attorney with escrow powers in this state as joint signatories for any distribution from the trust fund. No funds shall be expended without the signature of either the administrator of the office of endowed care cemeteries, or a licensed practicing attorney with escrow powers in this state. The account shall

be insured by the Federal Deposit Insurance Corporation or comparable deposit insurance and held in the state- or federally chartered financial institution authorized to do business in Missouri and located in this state. The income from the endowed care fund shall be distributed to the cemetery operator at least in annual or semiannual installments. The cemetery operator shall have the duty and responsibility to apply the income to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the endowed care fund shall have been established and not for any other purpose. The principal of such funds shall be kept intact and appropriately invested by the cemetery operator with written approval of either the administrator of the office endowed care cemeteries or a licensed practicing attorney with escrow powers in this state. It shall be the duty of the cemetery owner in the investment of such funds to exercise the diligence and care a person of reasonable prudence, intelligence and discretion would employ, but with a view to permanency of investment considering probable safety of capital investment, income produced and appreciation of capital investment. The cemetery owner's duties shall be the maintenance of records and the accounting for an investment of moneys deposited by the operator to the endowed care fund. For purposes of sections 214.270 to 214.410, the administrator of the office of endowed care cemeteries or the licensed practicing attorney with escrow powers in this state shall not be deemed to be responsible for the care, maintenance, or operation of the cemetery. With respect to cemetery property maintained by cemetery care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property owned by the cemetery operator and for the opening and closing of all graves, crypts, or niches for human remains in any cemetery property owned by the cemetery operator.

3. The cemetery operator shall be accountable to the owners of burial space in the cemetery for compliance with sections 214.270 to 214.410.

4. All endowed care funds shall be administered in accordance with an endowed care fund agreement. The endowed care fund agreement shall be subject to review and approval by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state. The endowed care cemetery shall be notified in writing by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state regarding the approval or disapproval of the endowed care fund agreement and regarding any changes required to be made for compliance with this chapter and the rules and regulations promulgated thereunder. A copy of the proposed endowed care fund agreement shall be submitted to the office of endowed care cemeteries. The office of endowed care cemeteries or a licensed practicing attorney with escrow powers in this state shall notify the endowed care cemetery in writing of approval and of any required change. Any amendment or change to the endowed care fund agreement shall be submitted to the office of endowed care cemeteries or to a licensed practicing attorney with escrow powers in this state for review and approval. Said amendment or change shall not be effective until approved by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state. All endowed care cemeteries shall be under a continuing duty to file with the office of endowed care cemeteries or with a licensed practicing attorney with escrow powers in this state and to submit for approval any and all changes, amendment, or revisions of the endowed care fund agreement.

362.011. TRUST BUSINESS NOT ENGAGED IN, WHEN — PROHIBITION ON USE OF WORDS "TRUST COMPANY", WHEN. — 1. For the purposes of this chapter, a person does not engage in the trust business by:

- (1) The rendering of fiduciary services by an attorney-at-law admitted to the practice of law in this state;**
- (2) Rendering services as a certified or registered public accountant in the performance of duties as such;**
- (3) Acting as a trustee or receiver in bankruptcy;**
- (4) Engaging in the business of an escrow agent;**

(5) Receiving rents and proceeds of sale as a licensed real estate broker on behalf of the principal;

(6) Acting as trustee under a deed of trust made only as security for the payment of money or for the performance of another act;

(7) Acting in accordance with its authorized powers as a religious, charitable, educational, or other not-for-profit corporation or as a charitable trust or as an unincorporated religious organization;

(8) Engaging in securities transactions as a dealer or salesman;

(9) Acting as either a receiver under the supervision of a court or as an assignee for the benefit of creditors under the supervision of a court; or

(10) Engaging in such other activities that the director may prescribe by rule.

2. Persons consigned to be not engaged in the trust business pursuant to subsection 1 of this section shall not use the words "trust company" as part of any artificial or corporate name or title nor shall such persons engage in any other conduct that violates section 362.425.

473.097. SMALL ESTATE — DISTRIBUTION OF ASSETS WITHOUT LETTERS, WHEN — AFFIDAVIT — PROCEDURE — FEE. — 1. Distributees of an estate which consists of personal property or real property or both personal and real property have a defeasible right to the personal property, and are entitled to the real property of such estate, as provided in this section, without awaiting the granting of letters testamentary or of administration, if all of the following conditions are met:

(1) The value of the entire estate, less liens, **debt**, and encumbrances, does not exceed forty thousand dollars;

(2) Thirty days have elapsed since the death of the decedent and no application for letters or for administration or for refusal of letters under section 473.090 is pending or has been granted, or if such refusal has been granted and subsequently revoked;

(3) A bond, in an amount not less than the value of the personal property, approved by the judge or clerk of the probate division is filed by the person making the [herein] required affidavit conditioned upon the payment of the debts of the decedent, including any debts to the state of Missouri, the expenses of funeral and burial and compliance with future orders of the court in relation to the estate of the decedent; and further conditioned that any part of the property to which the distributee is not entitled will be delivered to the persons entitled to the property under the law. Liability of the sureties on the bonds provided for in this section terminates unless proceedings against them are instituted within two years after the bond is filed; except that, the court may dispense with the filing of a bond if it finds that the same is not necessary;

(4) A fee, in the amount prescribed in [subdivision (4) of] subsection 1 of section 483.580, RSMo, and when required, the publication cost of the notice to creditors are paid or the proof of payment for such publication is provided to the clerk of the probate [court] **division**.

2. Notwithstanding the limitation periods set out in section 473.050, the affidavit required by this section may be made by the person designated as personal representative under the will of the decedent, if a will has been presented for probate within the limitation periods specified in section 473.050, otherwise by any distributee entitled to receive property of the decedent any time after thirty days after decedent's death, and shall set forth all of the following:

(1) That the decedent left no will or, if the decedent left a will, that the will was presented for probate within the limitation periods specified in section 473.050;

(2) That all unpaid debts, claims or demands against the decedent or the decedent's estate and all estate taxes due, if any, on the property transfers involved have been or will be paid, except that any liability by the affiant for the payment of unpaid claims or demands shall be limited to the value of the property received;

(3) An itemized description and valuation of property of the decedent. As used in this subdivision, the phrase "property of the decedent" shall not include property which was held by the decedent as a tenant by the entirety or a joint tenant at the time of the decedent's death;

(4) The names and addresses of persons having possession of the property;

(5) The names, addresses and relationship to the decedent of the persons entitled to and who will receive, the specific items of property remaining after payment of claims and debts of the decedent, included in the affidavit;

(6) The facts establishing the right to such specific items of property as prescribed by this section.

The certificate of the clerk shall be annexed to or endorsed on the affidavit and shall show the names and addresses of the persons entitled to the described property under the facts stated in the affidavit and shall recite that the will of decedent has been probated or that no will has been presented to the court and that all estate taxes on the property, if any are due, have been paid.

3. A copy of the affidavit and certificate shall be filed in the office of the clerk of the probate division and copies of the affidavit and certificate shall be furnished by the clerk.

4. The distributees mentioned in this section may establish their right to succeed to the real estate of the decedent by filing a copy of the foregoing affidavit and certificate of the clerk in the office of the recorder of deeds of each county where the real property is situated.

5. When the value of the property listed in the affidavit is more than fifteen thousand dollars, the clerk shall cause to be published in a newspaper of general circulation within the county which qualifies under chapter 493, RSMo, a notice to creditors of the decedent to file their claims in the court or be forever barred. The notice shall be published once a week for two consecutive weeks. Proof of publication of notice pursuant to this section shall be filed not later than ten days after completion of the publication. The notice shall be in substantially the following form:

To all persons interested in the estate of, Decedent:

On the day of, [19...] 20..., a small estate affidavit was filed by the distributees for the decedent under section 473.097, RSMo, with the probate division of the circuit court of County, Missouri.

All creditors of the decedent, who died on, [19...] 20..., are notified that section 473.444 sets a limitation period that would bar claims one year after the death of the decedent. A creditor may request that this estate be opened for administration.

Receipt of this notice should not be construed by the recipient to indicate that the recipient may possibly have a beneficial interest in the estate. The nature and extent of any person's interest, if any, may possibly be determined from the affidavit on this estate filed in the probate division of the circuit court of County, Missouri.

Date of first publication is, [19...] 20...

.....
Clerk of the Probate Division
of the Circuit Court
..... County, Missouri

6. Upon compliance with the procedure required by this section, the personal property and real estate involved shall not thereafter be taken in execution for any debts or claims against the decedent, but such compliance has the same effect in establishing the right of distributees to succeed to the property as if complete administration was had; but nothing in this section affects the right of secured creditors with respect to such property.

7. The affiant shall collect the property of decedent described in the affidavit. The property of decedent shall be liquidated by the affiant to the extent necessary to pay debts of decedent. If the decedent's property is not sufficient to pay such debts, abatement of the shares of the distributees shall occur in accordance with section 473.620. The affiant shall distribute the remaining property to such persons identified in the affidavit as required in subdivision (5) of

subsection 2 of this section who are entitled to receive the specific items of personal property, as described in the affidavit, or to have any evidence of such property transferred to such persons. To the extent necessary to facilitate distribution, the affiant may liquidate all or part of decedent's property.

Approved July 10, 2002

HB 1548 [SCS HB 1548]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Provides for the completion of the newborn hearing screening if the newborn is transferred to another facility before the screenings are completed.

AN ACT to repeal section 191.925, RSMo, and to enact in lieu thereof one new section relating to newborn hearing screening program.

SECTION

A. Enacting clause.

191.925. Screening for hearing loss, infants, when — procedures used — exemptions — information provided, by whom — no liability, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 191.925, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 191.925, to read as follows:

191.925. SCREENING FOR HEARING LOSS, INFANTS, WHEN — PROCEDURES USED — EXEMPTIONS — INFORMATION PROVIDED, BY WHOM — NO LIABILITY, WHEN. — 1. Effective January 1, 2002, every infant born in this state shall be screened for hearing loss in accordance with the provisions of sections [191.225] **191.925** to 191.937 and section 376.685, RSMo.

2. The screening procedure shall include the use of at least one of the following physiological technologies:

- (1) Automated or diagnostic auditory brainstem response (ABR);
- (2) Otoacoustic emissions (OAE); or
- (3) Other technologies approved by the department of health and senior services.

3. Every newborn delivered on or after January 1, 2002, in an ambulatory surgical center or hospital shall be screened for hearing loss prior to discharge of the infant from the facility. **Any facility that transfers a newborn for further acute care prior to completion of the newborn hearing screening shall notify the receiving facility of the status of the newborn hearing screening. The receiving facility shall be responsible for the completion of the newborn hearing screening.** Such facilities shall report the screening results on all newborns to the parents or guardian of the newborn, and the department of health and senior services in a manner prescribed by the department.

4. If a newborn is delivered in a place other than the facilities listed in subsection 3 of this section, the physician or person who professionally undertakes the pediatric care of the infant shall ensure that the newborn hearing screening is performed within three months of the date of the infant's birth. Such physicians and persons shall report the screening results on all newborns

to the parents or guardian of the newborn, and the department of health and senior services in a manner prescribed by the department.

5. The provisions of this section shall not apply if the parents of the newborn or infant object to such testing on the grounds that such tests conflict with their religious tenets and practices.

6. As provided in subsection 5 of this section, the parent of any child who fails to have the hearing screening test administered after notice of the requirement for such test shall have such refusal documented in writing. Such physicians, persons or administrators shall obtain the written refusal and make such refusal part of the medical record of the infant, and shall report such refusal to the department of health and senior services in a manner prescribed by the department.

7. The physician or person who professionally undertakes the pediatric care of the newborn, and administrators of ambulatory surgical centers or hospitals shall provide to the parents or guardians of newborns a written packet of educational information developed and supplied by the department of health and senior services describing the screening, how it is conducted, the nature of the hearing loss, and the possible consequences of treatment and nontreatment for hearing loss prior to administering the screening.

8. All facilities or persons described in subsections 3 and 4 of this section who voluntarily provide hearing screening to newborns prior to January 1, 2002, shall report such screening results to the department of health in a manner prescribed by the department.

9. All facilities or persons described in subsections 3 and 4 of this section shall provide the parents or guardians of newborns who fail the hearing screening with educational materials that:

(1) Communicate the importance of obtaining further hearing screening or diagnostic audiological assessment to confirm or rule out hearing loss;

(2) Identify community resources available to provide rescreening and diagnostic audiological assessments; and

(3) Provide other information as prescribed by the department of health and senior services.

10. Any person who acts in good faith in complying with the provisions of this section by reporting the newborn hearing screening results to the department of health and senior services shall not be civilly or criminally liable for furnishing the information required by this section.

11. The department of health and senior services shall provide audiological and administrative technical support to facilities and persons implementing the requirements of this section, including, but not limited to, assistance in:

(1) Selecting state-of-the-art newborn hearing screening equipment;

(2) Developing and implementing newborn hearing screening procedures that result in appropriate failure rates;

(3) Developing and implementing training for individuals administering screening procedures;

(4) Developing and distributing educational materials for families;

(5) Identifying community resources for delivery of rescreening and pediatric audiological assessment services; and

(6) Implementing reporting requirements.

Such audiological technical support shall be provided by individuals qualified to administer newborn and infant hearing screening, rescreening and diagnostic audiological assessment.

Approved July 2, 2002

HB 1568 [SCS HB 1568]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Sets limits on the types of investments an insurance company can participate in.

AN ACT to repeal sections 375.246, 375.330, 375.1202, 376.311, 376.671, 376.951, 376.952, 376.955, 376.957 and 379.080, RSMo, and to enact in lieu thereof fourteen new sections relating to insurance.

SECTION

- A. Enacting clause.
- 375.246. Reinsurance, when allowed as an asset or reduction from liability.
- 375.330. Purchase and ownership of real estate.
- 375.1202. Reinsurers, amounts recoverable not reduced due to delinquency proceedings — exceptions.
- 376.311. Investment of capital reserve and surplus of life insurance companies in investment pools — definitions — qualifications — requirements.
- 376.671. Provisions which shall be contained in annuity contracts.
- 376.951. Law, how cited — definitions.
- 376.952. Laws applicable, Medicare supplement laws not applicable — purpose — policies or riders must be in compliance.
- 376.955. Policies, content requirements, provisions prohibited — rules authorized.
- 376.957. Coverage outline to be delivered to applicants, when, content.
- 376.1121. Denial of claim, long-term care insurance, duties of issuer.
- 376.1124. Rescinding of a long-term care policy, permitted when — grounds for contesting — no field issuance, when.
- 376.1127. Nonforfeiture benefit option required for long-term care insurance policies, requirements of offer — rulemaking authority.
- 376.1130. Rulemaking authority.
- 379.080. Capital and surplus of stock or mutual company, investments authorized — violation, penalty.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 375.246, 375.330, 375.1202, 376.311, 376.671, 376.951, 376.952, 376.955, 376.957 and 379.080, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 375.246, 375.330, 375.1202, 376.311, 376.671, 376.951, 376.952, 376.955, 376.957, 376.1121, 376.1124, 376.1127, 376.1130 and 379.080, to read as follows:

375.246. REINSURANCE, WHEN ALLOWED AS AN ASSET OR REDUCTION FROM LIABILITY. — 1. Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a [deduction] **reduction** from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subdivisions (1) to [(4)] **(5)** of this subsection. [If meeting the requirements of subdivision (3) or (4) of this subsection, the requirements of subdivision (5) must also be met.] **Credit shall be allowed pursuant to subdivision (1), (2) or (3) of this subsection only as respects cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed pursuant to subdivision (3) or (4) of this subsection only if the applicable requirements of subdivision (6) have been satisfied.**

(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer [which] **that** is licensed to transact insurance in this state;

(2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer [which] **that** is accredited as a reinsurer in this state. An accredited reinsurer is one [which] **that**:

(a) Files with the director evidence of its submission to this state's jurisdiction;

(b) Submits to the authority of the department of insurance to examine its books and records;

(c) Is licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state;

(d) Files annually with the director a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and

(e) [Either:

a.] Maintains a surplus as regards policyholders in an amount [which is] not less than twenty million dollars and whose accreditation has not been denied by the director within ninety days of its submission; or

[b.] (f) Maintains a surplus as regards policyholders in an amount less than twenty million dollars and whose accreditation has been approved by the director[;

c. The requirements in subparagraphs a and b of this paragraph do not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system;].

No credit shall be allowed a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the director after notice and hearing.

(3) Credit shall be allowed when the reinsurance is ceded to an assuming insurer [which] **that** is domiciled [and licensed] in, or in the case of a United States branch of an alien assuming insurer is entered through, a state [which] **that** employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

(a) Maintains a surplus as regards policyholders in an amount not less than twenty million dollars; **except that this paragraph does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system;** and

(b) Submits to the authority of the department of insurance to examine its books and records;

(4) (a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer [which] **that** maintains a trust fund in a qualified United States financial institution, as defined in subdivision (2) of subsection 3 of this section, for the payment of the valid claims of its United States [policyholders and] ceding insurers, their assigns and successors in interest. **To enable the director to determine the sufficiency of the trust fund,** the assuming insurer shall report annually to the director information substantially the same as that required to be reported on the National Association of Insurance Commissioners' annual statement form by licensed insurers [to enable the director to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars. In the case of a group including incorporated and individual unincorporated underwriters, the trust shall consist of a trustee account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which one hundred million dollars shall be held jointly for the benefit of United States ceding insurers or any member of the group. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members. The group shall make available to the director an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants;

(b) In the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in the previous paragraph, and which is under the supervision of the Department of Trade and Industry of the United Kingdom and submits to the authority of the department of insurance to examine its books and records and bears the expense of such examination, and which has aggregate policyholders' surplus of ten billion dollars; the trust shall be in an amount equal to the group's several liabilities attributable to United States business ceded by United States ceding insurers to any member of the group pursuant to

reinsurance contracts issued in the name of such group; plus the group shall maintain a joint trusteed surplus of which one hundred million dollars shall be held jointly for the benefit of United States ceding insurers or any member of the group as additional security for any such liabilities, and each member of the group shall make available to the director an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant;

(c) Such trust shall be established in a form approved by the director of insurance]. **The assuming insurer shall submit to examination of its books and records by the director.**

(b) Credit for reinsurance shall not be granted pursuant to this subdivision unless the form of the trust and any amendments to the trust have been approved by:

a. The commissioner or director of the state agency regulating insurance in the state where the trust is domiciled; or

b. The commissioner or director of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(c) The form of the trust and any trust amendments shall also be filed with the commissioner or director in every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in [the trustees of the trust for its United States policyholders and] **its trustees for the benefit of the assuming insurer's United States** ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the director.

(d) The trust [described herein must] **shall** remain in effect for as long as the assuming insurer [shall have] **has** outstanding obligations due under the reinsurance agreements subject to the trust[;

(d)]. No later than February twenty-eighth of each year the trustees of the trust shall report to the director in writing [setting forth] the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust [shall] **will** not expire prior to the next following December thirty-first[;].

(e) The following requirements apply to the following categories of assuming insurers:

a. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by the United States ceding insurers, and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than twenty million dollars;

b. In the case of a group of incorporated and individual unincorporated underwriters:

(i) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after August 1, 1995, the trust shall consist of a trusteed account in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group;

(ii) For reinsurance ceded under reinsurance agreements with an inception date on or before July 31, 1995, and not amended or renewed after that date, notwithstanding the other provisions of this section, the trust shall consist of a trustee account in an amount not less than the group's several insurance and reinsurance liabilities attributable to business in the United States; and

(iii) In addition to these trusts, the group shall maintain in trust a trusteed surplus of which one hundred million dollars shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account;

c. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members;

d. Within ninety days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the director an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group;

(5) Credit:

(a) Shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of subdivision (1), (2), (3) or (4) of this subsection, but only as to the insurance of risks located in a jurisdiction of the United States where the reinsurance is required by applicable law or regulation of that jurisdiction;

(b) May be allowed in the discretion of the director when the reinsurance is ceded to an assuming insurer not meeting the requirements of subdivision (1), (2), (3) or (4) of this subsection, but only as to the insurance of risks located in a foreign country where the reinsurance is required by applicable law or regulation of that country;

[(5)] (6) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit permitted by subdivisions (3) and (4) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(a) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer shall submit to the jurisdiction of the courts of this state, will comply with all requirements necessary to give such courts jurisdiction, and will abide by the final decisions of such courts or of any appellate courts in this state in the event of an appeal; and

(b) To designate the director or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company. This [provision] **paragraph** is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if [such an] **this** obligation is created in the agreement and the jurisdiction and situs of the arbitration is [the state of Missouri], **with respect to any receivership of the ceding company, any jurisdiction of the United States;**

(7) If the assuming insurer does not meet the requirements of subdivision (1), (2) or (3) of this subsection, the credit permitted by subdivision (4) of this subsection shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(a) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by paragraph (e) of subdivision (4) of this subsection, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner or director with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner or director with regulatory oversight all of the assets of the trust fund;

(b) The assets shall be distributed by and claims shall be filed with and valued by the commissioner or director with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies;

(c) If the commissioner or director with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the commissioner or director with regulatory oversight to the trustee for distribution in accordance with the trust agreement; and

(d) The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this subsection.

2. [A] **An asset or** reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of subsection 1 of this section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer [and such]. **The** reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with [such] **the** assuming insurer as security for the payment of obligations thereunder, if [such] **the** security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in subdivision (2) of subsection 3 of this section. This security may be in the form of:

- (1) Cash;
- (2) Securities listed by the securities valuation office of the National Association of Insurance Commissioners and qualifying as admitted assets;
- (3) (a) Clean, irrevocable, unconditional letters of credit, as defined in subdivision (1) of subsection 3 of this section, issued or confirmed by a qualified United States **financial** institution no later than December thirty-first [with respect to] **of** the year for which filing is being made, and in the possession of, **or in trust for**, the ceding company on or before the filing date of its annual statement.
(b) Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, shall continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs;
- (4) Any other form of security acceptable to the director [and approved by the attorney general].

3. (1) For purposes of subdivision (3) of subsection 2 of this section, a "qualified United States financial institution" means an institution that:

- (a) Is organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state thereof;
- (b) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies; and
- (c) Has been determined by either the director, or the securities valuation office of the National Association of Insurance Commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the director.

(2) A "qualified United States financial institution" means, for purposes of those provisions of this law specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

- (a) Is organized, or in the case of a United States branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and
- (b) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

4. The director may adopt rules and regulations implementing the provisions of this section.

5. (1) The director shall disallow any credit as an asset or as a deduction from liability for any reinsurance found by him to have been arranged for the purpose principally of deception as to the ceding company's financial condition as of the date of any financial statement of the company. Without limiting the general purport of this provision, reinsurance of any substantial part of the company's outstanding risks contracted for in fact within four months prior to the date of any such financial statement and canceled in fact within four months after the date of such statement, or reinsurance under which the assuming insurer bears no substantial insurance risk or substantial risk of net loss to itself, shall prima facie be deemed to have been arranged for the purpose principally of deception within the intent of this provision.

(2) (a) The director shall also disallow as an asset or deduction from liability to any ceding insurer any credit for reinsurance unless the reinsurance is payable to the ceding company, and if it be impaired or insolvent to its [rehabilitator or] receiver, by the assuming insurer on the basis of the liability of the ceding company under the contracts reinsured without diminution because of the insolvency of the ceding company.

(b) Such payments shall be made directly to the ceding insurer or to its domiciliary liquidator except:

a. Where the contract of insurance or reinsurance specifically provides for payment to the named insured, assignee or named beneficiary of the policy issued by the ceding insurer in the event of the insolvency of the ceding insurer; or

b. Where the assuming insurer, with the consent of it and the direct insured or insureds in an assumption reinsurance transaction subject to sections 375.1280 to 375.1295, has assumed such policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under such policies and in substitution for the obligations of the ceding insurer to such payees.

(c) Notwithstanding paragraphs (a) and (b) of this subdivision, in the event that a life and health insurance guaranty association has made the election to succeed to the rights and obligations of the insolvent insurer under the contract of reinsurance, then the reinsurer's liability to pay covered reinsured claims shall continue under the contract of reinsurance, subject to the payment to the reinsurer of the reinsurance premiums for such coverage. Payment for such reinsured claims shall only be made by the reinsurer pursuant to the direction of the guaranty association or its designated successor. Any payment made at the direction of the guaranty association or its designated successor by the reinsurer will discharge the reinsurer of all further liability to any other party for such claim payment.

(d) The reinsurance agreement may provide that the domiciliary liquidator of an insolvent ceding insurer shall give written notice to the assuming insurer of the pendency of a claim against such ceding insurer on the contract reinsured within a reasonable time after such claim is filed in the liquidation proceeding. During the pendency of such claim, any assuming insurer may investigate such claim and interpose, at its own expense in the proceeding where such claim is to be adjudicated any defenses which it deems available to the ceding insurer, or its liquidator. Such expense may be filed as a claim against the insolvent ceding insurer to the extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer. Where two or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to such claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though such expense had been incurred by the ceding insurer.

6. [After an insurer has been declared insolvent the liquidator or receiver of such insurer shall file with the director a statement which shall reflect the claims reserves (including incurred but not reported losses) and unearned premium reserves which have been established by the liquidator or receiver and which shall also set forth the amounts of such reserves that are allocable to particular reinsurers of the insolvent company. Each such statement shall be filed by each liquidator or receiver not less frequently than annually and shall be considered for all intents and purposes as the annual statement which was required to be filed by the insurer with the director prior to the liquidation proceedings.] To the extent that any reinsurer of an insurance company in liquidation would have been required under any agreement pertaining to reinsurance to post letters of credit or other security prior to an order of liquidation to cover such reserves reflected upon [a] the last financial statement [required to post letters of credit or other security to cover such] **filed with a regulatory authority immediately prior to receivership, such reinsurer shall be required to post letters of credit or other security to cover reserves after a company has been placed in liquidation or receivership.** If a reinsurer shall fail to post letters

of credit or other security **as** required by a reinsurance agreement or the provisions of this [section] **subsection**, the director may [issue an order barring such reinsurer from thereafter reinsuring any insurance company which is incorporated under the laws of the state of Missouri or admitted to do business in] **consider disallowing as a credit or asset, in whole or in part, any future reinsurance ceded to such reinsurer by a ceding insurance company that is incorporated under the laws of** the state of Missouri.

7. The provisions of section 375.420 shall not apply to any action, suit or proceeding by a ceding insurer against an assuming insurer arising out of a contract of reinsurance effectuated in accordance with the laws of Missouri.

8. The provisions of this section shall become effective on January 1, [1992] **2003**, and shall be applicable to the financial statements of a reinsurer as of December 31, [1991] **2002**.

375.330. PURCHASE AND OWNERSHIP OF REAL ESTATE. — 1. No insurance company formed under the laws of this state shall be permitted to purchase, hold or convey real estate, excepting for the purpose and in the manner herein set forth, to wit:

(1) Such as shall be necessary for its accommodation in the transaction of its business; provided that before the purchase of real estate for any such purpose, the approval of the director of the department of insurance must be first had and obtained, and [in no event shall] **except with the approval of the director**, the value of such real estate, together with all appurtenances thereto, purchased for such purpose[:

(a) If a stock company, exceed the amount of its capital stock;

(b) If a fire or casualty company, but not a stock company, exceed sixty percent of its surplus or ten percent of its admitted assets, as shown by its last annual statement preceding the date of acquisition, as filed with the director of the department of insurance, whichever is the lesser; or

(c) If any other type or kind of insurance company, exceed sixty percent of its surplus or five percent of its admitted assets, as shown by its last annual statement, whichever is the lesser] **shall not exceed twenty percent of the insurance company's capital and surplus as shown by its last annual statement; or**

(2) Such as shall have been mortgaged in good faith by way of security for loans previously contracted, or for moneys due; or

(3) Such as shall have been conveyed to it in satisfaction of debts contracted in the course of its dealings; or

(4) Such as shall have been purchased at sales upon the judgments, decrees or mortgages obtained or made for such debts; or

(5) Such as shall be necessary and proper for carrying on its legitimate business under the provisions of the Urban Redevelopment Corporations Act; or

(6) Such as shall have been acquired under the provisions of the Urban Redevelopment Corporations Act permitting such company to purchase, own, hold or convey real estate; or

(7) Such real estate, or any interest therein, as may be acquired or held by it by purchase, lease or otherwise, as an investment for the production of income, which real estate or interest therein may thereafter be held, improved, developed, maintained, managed, leased, sold or conveyed by it as real estate necessary and proper for carrying on its legitimate business; or

(8) A reciprocal or interinsurance exchange may, in its own name, purchase, sell, mortgage, hold, encumber, lease, convey, or otherwise affect the title to real property for the purposes and objects of the reciprocal or interinsurance exchange. Such deeds, notes, mortgages or other documents relating to real property may be executed by the attorney in fact of the reciprocal or interinsurance exchange. This provision shall be retroactive and shall apply to real estate owned or sold by a reciprocal insurer prior to August 28, 1990.

2. The investments acquired under subdivision (7) of subsection 1 of this section may be in either existing or new business or industrial properties, or for new residential properties or new housing purposes.

3. Provided, no such insurance company shall invest more than ten percent of its admitted assets, as shown by its last annual statement preceding the date of acquisition, as filed with the director of the department of insurance of the state of Missouri, in the total amount of real estate acquired under subdivision (7) of subsection 1, nor more under subdivision (7) of subsection 1 than one percent of its admitted assets or ten percent of its capital and surplus, whichever is greater, in any one property, nor more under subdivision (7) of subsection 1 than one percent of its admitted assets or ten percent of its capital and surplus, whichever is greater, in total properties leased or rented to any one individual, partnership or corporation.

4. It shall not be lawful for any company incorporated as aforesaid to purchase, hold or convey real estate in any other case or for any other purpose; and all such real estate acquired in payment of a debt, by foreclosure or otherwise, and real estate exchanged therefor, shall be sold and disposed of within ten years after such company shall have acquired absolute title to the same, unless the company owning such real estate or interest therein shall elect to hold it pursuant to subdivision (7) of subsection 1.

5. The director of the department of insurance may, for good cause shown, extend the time for holding such real estate acquired in paying of a debt, by foreclosure or otherwise, and real estate exchanged therefor, and not held by the company under subdivision (7) of subsection 1, for such period as he may find to be to the best interests of the policyholders of said company.

6. If a life insurance company depositing under section 376.170, RSMo, becomes the owner of real estate pursuant to this section, the company may execute its own deed for the real estate to the director of the department of insurance, as trustee. The deed may be deposited with the director as proper security, under and according to the provisions of sections 376.010 to 376.670, RSMo, the value to be subject to the approval of the director.

375.1202. REINSURERS, AMOUNTS RECOVERABLE NOT REDUCED DUE TO DELINQUENCY PROCEEDINGS — EXCEPTIONS. — 1. The amount recoverable by the liquidator from reinsurers shall not be reduced as a result of the delinquency proceedings, regardless of any provision in the reinsurance contract or other agreement. Payment made directly to an insured or other creditor shall not diminish the reinsurer's obligation to the insurer's estate **except where:**

(1) **The reinsurance contract specifically provides for payment to the named insured, assignee or named beneficiary of the policy issued by the ceding insurer in the event of the ceding insurer's insolvency; or**

(2) **The assuming insurer, with the consent of the direct insured or insureds, has directly assumed the ceding insurer's policy obligations to the payees under such policies in substitution for the ceding insurer's obligations to such payees.**

2. Notwithstanding subsection 1 of this section, in the event that a life and health insurance guaranty association has made the election to succeed to the rights and obligations of the insolvent insurer under the contract of reinsurance, then the reinsurer's liability to pay covered reinsured claims shall continue under the contract of reinsurance, subject to the payment to the reinsurer of the reinsurance premiums for such coverage. Payment for such reinsured claims shall only be made by the reinsurer pursuant to the direction of the guaranty association or its designated successor. Any payment made at the direction of the guaranty association or its designated successor by the reinsurer will discharge the reinsurer of all further liability to any other party for said claim payment.

376.311. INVESTMENT OF CAPITAL RESERVE AND SURPLUS OF LIFE INSURANCE COMPANIES IN INVESTMENT POOLS — DEFINITIONS — QUALIFICATIONS — REQUIREMENTS. — 1. In addition to the investments permitted by other provisions of the laws, the capital reserve and surplus of all life insurance companies of whatever kind and character, organized or doing business pursuant to this chapter, may be invested in an investment pool meeting the requirements set out below, and any other provision of law relating to investments made by life insurance companies.

2. As used in this section, the following terms mean:

(1) "Business entity", a corporation, limited liability company, association, partnership, joint stock company, joint venture, mutual fund trust, or other similar form of business organization, including such an entity when organized as a not-for-profit entity;

(2) "Qualified bank", a national bank, state bank or trust company that at all times is no less than adequately capitalized as determined by the standards adopted by the United States banking regulators and that is either regulated by state banking laws or is a member of the Federal Reserve System.

3. (1) Qualified investment pools shall invest only in investments which an insurer may acquire pursuant to this chapter and other provisions of law. The insurer's proportionate interest in these investments may not exceed the applicable limits of this section and other provisions of law.

(2) An insurer shall not acquire an investment in an investment pool pursuant to this subsection if, after giving effect to the investment, the aggregate amount of investments in all investment pools then held by the insurer would exceed thirty percent of its assets.

(3) For an investment in an investment pool to be qualified pursuant to this chapter, the investment pool shall not:

(a) Acquire securities issued, assumed, guaranteed or insured by the insurer or an affiliate of the insurer;

(b) Borrow or incur any indebtedness for borrowed money, except for securities lending and reverse repurchase transactions;

(c) Lend money or other assets to participants in the pool.

(4) For an investment pool to be qualified pursuant to this chapter, the manager of the investment pool shall:

(a) Be organized pursuant to the laws of the United States or a state and designated as the pool manager in a pooling agreement;

(b) Be the insurer; an affiliated insurer; **a business entity affiliated with the insurer**; a qualified bank; a business entity registered pursuant to the Investment Advisors Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.) as amended; or, in the case of a reciprocal insurer or interinsurance exchange, its attorney-in-fact.

(5) The pool manager, or an agent designated by the pool manager, shall compile and maintain detailed accounting records setting forth:

(a) The cash receipts and disbursements reflecting each participant's proportionate investment in the investment pool;

(b) A complete description of all underlying assets of the investment pool including amount, interest rate, maturity date (if any) and other appropriate designations; and

(c) Other records which, on a daily basis, allow third parties to verify each participant's investments in the investment pool.

(6) The pool manager shall maintain the assets of the investment pool in one **or more** custody [account] **accounts**, in the name of or on behalf of the investment pool, under [a] **one or more** custody [agreement] **agreements** with a qualified bank. [All custodial agreements shall be filed with the department of insurance for prior approval. The] **Each** custody agreement shall:

(a) State and recognize the claims and rights of each participant;

(b) Acknowledge that the underlying assets of the investment pool are held solely for the benefit of each participant in proportion to the aggregate amount of its investments in the investment pool; and

(c) Contain an agreement that the underlying assets of the investment pool shall not be commingled with the general assets of the qualified bank or any other person.

(7) The pooling agreement for each investment pool shall be in writing and shall provide that:

- (a) An insurer and its [affiliated insurers] **affiliates** shall, at all times, hold one hundred percent of the interests in the investment pool;
- (b) The underlying assets of the investment pool shall not be commingled with the general assets of the pool manager or any other person;
- (c) The aggregate amount of each pool participant's interest in the investment pool shall be in proportion to:
 - a. Each participant's undivided interest in the underlying assets of the investment pool; and
 - b. The underlying assets of the investment pool held solely for the benefit of each participant;
- (d) A participant or, in the event of the participant's insolvency, bankruptcy or receivership, its trustee, receiver, conservator or other successor-in-interest may withdraw all or any portion of its investment from the investment pool under the terms of the pooling agreement;
- (e) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlement of funds shall occur within a reasonable and customary period thereafter, provided:
 - a. In the case of publicly traded securities, settlement shall not exceed five business days; and
 - b. In the case of all other securities and investments, settlement shall not exceed ten business days.

Distributions pursuant to this paragraph shall be calculated in each case net of all then applicable fees and expenses of the investment pool.

- (8) The pooling agreement shall provide that the pool manager shall distribute to a participant, at the discretion of the pool manager:
 - (a) In cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool; or
 - (b) In-kind, a pro rata share of each underlying asset; or
 - (c) In a combination of cash and in-kind distributions, a pro rata share in each underlying asset;
- (9) The pool manager shall make the records of the investment pool available for inspection by the director.

4. The pooling agreement and any other arrangements or agreements relating to an investment pool, and any amendments thereto, shall be submitted to the department of insurance for prior approval pursuant to section 382.195, RSMo. Individual financial transactions between the pool and its participants in the ordinary course of the investment pool's operations shall not be subject to the provisions of section 382.195, RSMo. Investment activities of pools and transactions between pools and participants shall be reported annually in the registration statement required by section 382.100, RSMo.

376.671. PROVISIONS WHICH SHALL BE CONTAINED IN ANNUITY CONTRACTS. — 1. This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.

2. In the case of contracts issued on or after the operative date of this section as defined in subsection 11, no contract of annuity, except as stated in subsection 1, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or

corresponding provisions which in the opinion of the director are at least as favorable to the contractholder, upon cessation of payment of considerations under the contract:

(1) That upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections 4, 5, 6, 7, and 9;

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections 4, 5, 7, and 9. The company shall reserve the right to defer the payment of such cash surrender benefit for a period of six months after demand therefor with surrender of the contract;

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits;

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract. Notwithstanding the requirements of this section, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

3. The minimum values as specified in subsections 4, 5, 6, 7, and 9 of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(1) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payment shall be equal to an accumulation up to such time at a rate of interest of three percent per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of

(a) Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent per annum; and

(b) The amount of any indebtedness to the company on the contract, including interest due and accrued and increased by any existing additional amounts credited by the company to the contract. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars and less a collection charge of one dollar and twenty-five cents per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent of the net consideration for the first contract year and eighty-seven and one-half percent of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent;

(2) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two exceptions:

(a) The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent of the net consideration for the first contract year plus twenty-two and one-half percent of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years;

(b) The annual contract charge shall be the lesser of thirty dollars or ten percent of the gross annual consideration;

(3) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent, and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars;

(4) Notwithstanding any other provision of this subsection, for any contract issued on or after July 1, 2002, and before July 1, 2004, the interest rate at which net considerations, prior withdrawals and partial surrenders shall be accumulated, for the purpose of determining minimum nonforfeiture amounts, shall be one and one-half percent per annum.

4. Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

5. For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

6. For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

7. For the purpose of determining the benefits calculated under subsections 5 and 6, in the case of annuity contracts under which an election may be made to have annuity payments

commence at optional maturity date, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

8. Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

9. Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

10. For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections 4, 5, 6, 7, and 9, additional benefits payable in the event of total and permanent disability, as reversionary annuity or deferred reversionary annuity benefits, or as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

11. After September 28, 1979, any company may file with the director a written notice of its election to comply with the provisions of this section after a specified date before September 28, 1981. After the filing of such notice, then upon such specified date, which shall be the operative date of this section for such company, this section shall become operative with respect to annuity contracts thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be September 28, 1981.

376.951. LAW, HOW CITED — DEFINITIONS. — 1. Sections 376.951 to 376.958 and sections 376.1121 to 376.1133 may be known and cited as the "Long-term Care Insurance Act".

2. As used in sections 376.951 to 376.958 and sections 376.1121 to 376.1133, unless the context requires otherwise, the following terms mean:

(1) "Applicant":

(a) In the case of an individual long-term care insurance policy, the person who seeks to contract for benefits; and

(b) In the case of a group long-term care insurance policy, the proposed certificate holder;

(2) "Certificate", any certificate [or evidence of coverage] issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this state;

(3) "Director", the director of the department of insurance of this state;

(4) "Group long-term care insurance", a long-term care insurance policy which is delivered or issued for delivery in this state and issued to:

(a) One or more employers or labor organizations, or to a trust or to the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees or a combination thereof or for members or former members or a combination thereof, of the labor organization; or

(b) Any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association;

a. Is composed of individuals all of whom are or were actively engaged in the same profession, trade or occupation; and

b. Has been maintained in good faith for purposes other than obtaining insurance; or

(c) An association or a trust or the trustee of a fund established, created or maintained for the benefit of members of one or more associations. Prior to advertising, marketing or offering such policy within this state, the association or associations, or the insurer of the association or associations, shall file evidence with the director that the association or associations have at the outset a minimum of one hundred persons and have been organized and maintained in good faith for purposes other than that of obtaining insurance; have been in active existence for at least one year; and have a constitution and bylaws which provide that:

a. The association or associations hold regular meetings not less than annually to further purposes of the members;

b. Except for credit unions, the association or associations collect dues or solicit contributions from members; and

c. The members have voting privileges and representation on the governing board and committees. Thirty days after such filing the association or associations shall be deemed to satisfy such organizational requirements, unless the director makes a finding that the association or associations do not satisfy those organizational requirements;

(d) A group other than as described in paragraph (a), (b) or (c) of subdivision (4) of this subsection, subject to a finding by the director that:

a. The issuance of the group policy is not contrary to the best interest of the public;

b. The issuance of the group policy would result in economies of acquisition or administration; and

c. The benefits are reasonable in relation to the premiums charged;

(5) "Long-term care insurance", any **insurance** policy[, contract, certificate, evidence of coverage] or rider advertised, marketed, offered or designed to provide coverage for not less than twelve consecutive months for each covered person on an expense-incurred, indemnity, prepaid or other basis; for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance of personal care services, provided in a setting other than an acute care unit of a hospital. Such term includes group and individual annuities and life insurance policies or riders which provide directly or which supplement long-term care insurance. Such term also includes a policy or rider which provides for payment of benefits based upon cognitive impairment or the loss of functional capacity. **Long-term care insurance also includes qualified long-term care insurance contracts.** Long-term care insurance may be issued by insurers; fraternal benefit societies; health services corporations; prepaid health plans; [and] health maintenance organizations, **or any similar organization** to the extent they are otherwise authorized **to issue life or health insurance.** Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage. **With regard to life insurance, long-term care insurance does not include life insurance policies that accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement, and that provide the option of a lump-sum payment for those benefits and neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care. Notwithstanding any other provision of sections 376.951 to 376.958 and sections 376.1121 to 376.1133 to the contrary, any product advertised, marketed, or offered as long-term**

care insurance shall be subject to the provisions of sections 376.951 to 376.958 and sections 376.1121 to 376.1133;

(6) "Policy", any policy, [contract, certificate, evidence of coverage,] subscriber agreement, rider or endorsement delivered or issued for delivery in this state by an insurer; fraternal benefit society; health services corporation; prepaid health plan or health maintenance organization, or any similar organization;

(7) "Qualified long-term care insurance contract" or "federally tax-qualified long-term care insurance contract", the portion of a life insurance contract that provides long-term care insurance coverage by rider or as part of the contract that satisfies the requirements of Section 7702B(b) and (e) of the Internal Revenue Code of 1986, as amended. Qualified long-term care insurance contract also includes an individual or group insurance contract that meets the requirements of Section 7702B(b) of the Internal Revenue Code of 1986, as amended, as follows:

(a) The only insurance protection provided under the contract is coverage of qualified long-term care services. A contract shall not fail to satisfy the requirements of this paragraph by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate;

(b) The contract does not pay or reimburse expenses incurred for services or items to the extent that the expenses are reimbursable under Title XVIII of the Social Security Act, as amended, or would be so reimbursable but for the application of a deductible or coinsurance amount. The requirements of this paragraph do not apply to expenses that are reimbursable under Title XVIII of the Social Security Act only as a secondary payor. A contract shall not fail to satisfy the requirements of this paragraph by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate;

(c) The contract is guaranteed renewable within the meaning of Section 7702B(b)(1)(C) of the Internal Revenue Code of 1986, as amended;

(d) The contract does not provide for a cash surrender value or other money that can be paid, assigned, pledged as collateral for a loan, or borrowed except as provided in paragraph (e) of this subdivision;

(e) All refunds of premiums and all policyholder dividends or similar amounts under the contract are to be applied as a reduction in future premiums or to increase future benefits; except that a refund on the event of death of the insured or a complete surrender or cancellation of the contract shall not exceed the aggregate premiums paid under the contract; and

(f) The contract meets the consumer protection provisions set forth in Section 7702B(g) of the Internal Revenue Code of 1986, as amended.

376.952. LAWS APPLICABLE, MEDICARE SUPPLEMENT LAWS NOT APPLICABLE — PURPOSE — POLICIES OR RIDERS MUST BE IN COMPLIANCE. — 1. The provisions of sections 376.951 to 376.958 and sections 376.1121 to 376.1133 shall apply to policies delivered or issued for delivery in this state on or after August 28, [1990] **2002**. Sections 376.951 to 376.958 and sections 376.1121 to 376.1133 are not intended to supersede the obligations of entities subject to the provisions of sections 376.951 to 376.958 and sections 376.1122 to 376.1133 to comply with the substance of other applicable insurance laws insofar as they do not conflict with the provisions of sections 376.951 to 376.958 and sections 376.1122 to 376.1133, except that laws and regulations designed and intended to apply to medicare supplement insurance policies shall not be applied to long-term care insurance.

2. The purposes of the provisions of sections 376.951 to 376.958 and sections 376.1122 to 376.1133 are to promote the public interest, to promote the availability of long-term care insurance policies, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to establish standards for long-term care insurance, to

facilitate public understanding and comparison of long-term care insurance policies, and to facilitate flexibility and innovation in the development of long-term care insurance coverage.

3. Any policy or rider advertised, marketed or offered as long-term care or nursing home insurance shall comply with the provisions of sections 376.951 to 376.958 **and sections 376.1122 to 376.1133.**

376.955. POLICIES, CONTENT REQUIREMENTS, PROVISIONS PROHIBITED — RULES AUTHORIZED. — 1. The director may adopt regulations that include standards for full and fair disclosure setting forth the manner, content and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions and definitions of terms. Regulations adopted pursuant to sections 376.951 to 376.958 **and sections 376.1122 to 376.1133** shall be in accordance with the provisions of chapter 536, RSMo.

2. No long-term care insurance policy may:

(1) Be canceled, nonrenewed or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder; or

(2) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder; or

(3) Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than for lower levels of care.

3. No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in paragraph (a) of subdivision (4) of subsection 2 of section 376.951:

(1) Shall use a definition of preexisting condition which is more restrictive than the following: "Preexisting condition" means a condition for which medical advice or treatment was recommended by, or received from, a provider of health care services, within six months preceding the effective date of coverage of an insured person;

(2) May exclude coverage for a loss or confinement which is the result of a preexisting condition unless such loss or confinement begins within six months following the effective date of coverage of an insured person.

4. The director may extend the limitation periods set forth in subdivisions (1) and (2) of subsection 3 of this section as to specific age group categories in specific policy forms upon findings that the extension is in the best interest of the public.

5. The definition of preexisting condition provided in subsection 3 of this section does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in subdivision (2) of subsection 3 of this section expires. No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in subdivision (2) of subsection 3 of this section.

6. No long-term care insurance policy may be delivered or issued for delivery in this state if such policy:

(1) Conditions eligibility for any benefits on a prior hospitalization requirement; or

(2) Conditions eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care; or

(3) Conditions eligibility for any benefits [on a prior institutionalization requirement, except in the case of] **other than** waiver of premium, post-confinement, post-acute care or recuperative benefits **on a prior institutionalization requirement**.

7. A long-term care insurance policy containing post-confinement, post-acute care or recuperative benefits shall clearly label in a separate paragraph of the policy or certificate entitled "Limitations or Conditions on Eligibility for Benefits" such limitations or conditions, including any required number of days of confinement.

8. A long-term care insurance policy or rider which conditions eligibility of noninstitutional benefits on the prior receipt of institutional care shall not require a prior institutional stay of more than thirty days.

9. No long-term care insurance policy or rider which provides benefits only following institutionalization shall condition such benefits upon admission to a facility for the same or related conditions within a period of less than thirty days after discharge from the institution.

10. The director may adopt regulations establishing loss ratio standards for long-term care insurance policies provided that a specific reference to long-term care insurance policies is contained in the regulation.

11. Long-term care insurance applicants shall have the right to return the policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Long-term care insurance policies and certificates shall have a notice prominently printed on the first page or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, other than a certificate issued pursuant to a policy issued to a group defined in paragraph (a) of subdivision (4) of subsection 2 of section 376.951, the applicant is not satisfied for any reason. **This subsection shall also apply to denials of applications and any refund must be made within thirty days of the return or denial.**

376.957. COVERAGE OUTLINE TO BE DELIVERED TO APPLICANTS, WHEN, CONTENT. —

1. An outline of coverage shall be delivered to a prospective applicant for long-term care insurance at the time of initial solicitation through means which prominently direct the attention of the recipient to the document and its purpose. The director shall prescribe a standard format, including style, arrangement and overall appearance, and the content of an outline of coverage. In the case of agent solicitations, an agent shall deliver the outline of coverage prior to the presentation of an [applicant] **application** or enrollment form. In the case of direct response solicitations, the outline of coverage shall be presented in conjunction with any application or enrollment form. **In the case of a policy issued to a group defined in section 376.951, an outline of coverage shall not be required to be delivered; provided that the information described in subdivisions (1) to (6) of subsection 2 of this section is contained in other materials relating to enrollment. Upon request, such other materials shall be made available to the director.**

2. The outline of coverage shall include:

(1) A description of the principal benefits and coverage provided in the policy;

(2) A statement of the principal exclusions, reductions, and limitations contained in the policy;

(3) A statement of the terms under which the policy or certificate, or both, may be continued in force or discontinued, including any reservation in the policy of a right to change the premium. Continuation or conversion provisions of group coverage shall be specifically described;

(4) A statement that the outline of coverage is a summary only, not a contract of insurance, and that the policy or group master policy contains governing contractual provisions;

(5) A description of the terms under which the policy or certificate may be returned and premium refunded; [and]

(6) A brief description of the relationship of cost of care and benefits; **and**

(7) A statement that discloses to the policyholder or certificate holder whether the policy is intended to be a federally tax-qualified long-term care insurance contract under Section 7702B(b) of the Internal Revenue Code of 1986, as amended.

3. A certificate issued pursuant to a group long-term care insurance policy which policy is delivered or issued for delivery in this state shall include:

- (1) A description of the principal benefits and coverage provided in the policy;
- (2) A statement of the principal exclusions, reductions and limitations contained in the policy; and
- (3) A statement that the group master policy determines governing contractual provisions.

4. **If an application for a long-term care insurance contract or certificate is approved, the issuer shall deliver the contract or certificate of insurance to the applicant no later than thirty days after the date of approval.**

5. At the time of policy delivery, a policy summary shall be delivered for an individual life insurance policy which provides long-term care benefits within the policy or by rider. In the case of direct response solicitations, the insurer shall deliver the policy summary upon the applicant's request, but regardless of request shall make such delivery no later than at the time of policy delivery. In addition to complying with all applicable requirements, the summary shall also include:

(1) An explanation of how the long-term care benefit interacts with other components of the policy, including deductions from death benefits;

(2) An illustration of the amount of benefits, the length of benefit, and the guaranteed lifetime benefits, if any, for each covered person;

(3) Any exclusions, reductions and limitations on benefits of long-term care; [and]

(4) **A statement that any long-term care inflation protection option that may be required by the laws of this state is not available under the policy; and**

(5) If applicable to the policy type, the summary shall also include:

(a) A disclosure of the effects of exercising other rights under the policy;

(b) A disclosure of guarantees related to long-term care costs of insurance charges [or notice that such guarantees are included in the policy or rider; and];

(c) Current and projected maximum lifetime benefits; and

(d) **The provisions of the policy summary listed in paragraphs (a) to (c) of this subdivision may be incorporated into a basic illustration required to be delivered in accordance with sections 375.1509, RSMo, or into the life insurance policy summary required to be delivered in accordance with section 376.706.**

376.1121. DENIAL OF CLAIM, LONG-TERM CARE INSURANCE, DUTIES OF ISSUER. — If a claim under a long-term care insurance contract is denied, the issuer shall, within sixty days of the date of a written request by the policyholder or certificate holder, or a representative thereof:

(1) **Provide a written explanation of the reasons for the denial; and**

(2) **Make available all information directly related to the denial.**

376.1124. RESCINDING OF A LONG-TERM CARE POLICY, PERMITTED WHEN — GROUNDS FOR CONTESTING — NO FIELD ISSUANCE, WHEN. — 1. For a policy or certificate that has been in force less than six months, an insurer may rescind a long-term care insurance policy or certificate, or deny an otherwise valid long-term care insurance claim upon a showing of misrepresentation that is material to the acceptance for coverage.

2. For a policy or certificate that has been in force for at least six months but less than two years, an insurer may rescind a long-term care insurance policy or certificate, or deny an otherwise valid long-term care insurance claim upon a showing of misrepresentation that is both material to the acceptance of coverage and which pertains to the conditions for which benefits are sought.

3. After a policy or certificate has been in force for two years, such policy or certificate is not contestable upon the grounds of misrepresentation alone. Such policy or certificate may be contested only upon a showing that the insured knowingly and intentionally misrepresented relevant facts relating to the insured's health.

4. No long-term care insurance policy or certificate shall be field issued based on medical or health status. For purposes of this subsection, "field issued" means a policy or certificate issued by an agent or third-party administrator pursuant to the underwriting authority granted to the agent or third-party administrator by an insurer.

5. If an insurer has paid benefits under the long-term care insurance policy or certificate, the benefit payments shall not be recovered by the insurer if such policy or certificate is rescinded.

6. In the event of the death of the insured, this section shall not apply to the remaining death benefit of a life insurance policy that accelerates benefits for long-term care. In this situation, the remaining death benefits under these policies shall be governed by the contestability provisions otherwise applicable in the policy to life insurance benefits. In all other situations, this section shall apply to life insurance policies that accelerate benefits for long-term care.

376.1127. NONFORFEITURE BENEFIT OPTION REQUIRED FOR LONG-TERM CARE INSURANCE POLICIES, REQUIREMENTS OF OFFER — RULEMAKING AUTHORITY. — 1. Except as provided in subsection 2 of this section, a long-term care insurance policy shall not be delivered or issued for delivery in this state unless the policyholder or certificate holder has been offered the option of purchasing a policy or certificate including a nonforfeiture benefit. The offer of a nonforfeiture benefit may be in the form of a rider that is attached to the policy. If a policyholder or certificate holder declines the nonforfeiture benefit, the insurer shall provide a contingent benefit upon lapse that will be available for a specified period of time following a substantial increase in premium rates.

2. When a group long-term care insurance policy is issued, the offer required in subsection 1 of this section shall be made to the group policyholder; except that, if the policy is issued as group long-term care insurance, as defined in section 376.951, other than to a continuing care retirement community or other similar entity, the offering shall be made to each proposed certificate holder.

3. The director shall promulgate rules specifying the type or types of nonforfeiture benefits to be offered as part of long-term care insurance policies and certificates, the standards for nonforfeiture benefits, and the rules regarding contingent benefit upon lapse, including a determination of the specified period of time during which a contingent benefit upon lapse will be available and the substantial premium rate increase that triggers a contingent benefit upon lapse as described in subsection 1 of this section.

376.1130. RULEMAKING AUTHORITY. — 1. The director shall promulgate reasonable rules to promote premium adequacy and to provide alternatives for the policyholder in the event of substantial rate increases, and to establish minimum standards for marketing practices, agent testing, penalties, and reporting practices for long-term care insurance.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 376.1121 to 376.1133 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

379.080. CAPITAL AND SURPLUS OF STOCK OR MUTUAL COMPANY, INVESTMENTS AUTHORIZED — VIOLATION, PENALTY. — 1. (1) The amount of the minimum capital required of a stock company to write the lines of business it proposes to transact or is transacting, or if the company is a mutual company an amount equal to the minimum capital required of a stock company transacting the same classes of business, shall be held in cash or invested in:

- (a) Treasury notes or bonds of the United States;
- (b) Bonds of the state of Missouri;
- (c) Bonds issued by any school district of the state of Missouri;
- (d) Bonds of any political subdivision of this state;
- (2) The remainder of the capital, surplus or policyholders' surplus of these companies and their other assets may be invested, to the extent allowed by this or any other provision of law, in:
 - (a) The investments authorized by subdivision (1) of subsection 1 of this section;
 - (b) Loans safely secured by personal property collateral worth, at its cash market value, not less than twenty percent in excess of the amount loaned thereon;
 - (c) Stocks, bonds or evidences of indebtedness issued by corporations organized under the laws of this state, or of the United States or of any other state;
 - (d) Bonds or other obligations issued by multinational development banks in which the United States is a member nation, including the African Development Bank;
 - (e) Bonds of any other state, or of any political subdivision of any other state;
 - (f) Mortgages or deeds of trust on unencumbered real estate in this or any other state worth not less than twenty percent in excess of the amount loaned thereon;
 - (g) If a company is authorized to do business in a foreign country or a possession of the United States or has outstanding insurance or reinsurance contracts on risks located in a foreign country or United States' possession, the company may invest the remainder of its capital and other assets in securities, cash or other investments payable in the currency of the foreign country or possession that are of substantially the same kinds and classes as those eligible for investments under this subsection, provided that such investments are made with the approval of the director. The aggregate amount of the foreign investments and cash shall not exceed the greater of one and one-half times the amount of the company's reserves and other obligations under the contracts or the amount that the company is required by law to invest in the foreign country or possession, and the aggregate amount of foreign investments and cash shall not exceed five percent of the company's admitted assets. All foreign investments shall be reported to the director from time to time as he directs;
 - (h) Loans evidenced by bonds, notes or other evidences of indebtedness guaranteed or insured, but only to the extent guaranteed or insured by the United States, any state, territory or possession of the United States, the District of Columbia, or by any agency, administration, authority or instrumentality of any of the political units enumerated;
 - (i) Shares of insured state-chartered building and loan associations and federal savings and loan associations, if such shares are insured by the Federal Deposit Insurance Corporation;
 - (j) Investments permitted by section 99.550, RSMo;
 - (k) Data processing equipment, automobiles, real estate and put or call options and financial futures contracts to the extent allowed by this section and any other provision of law;
 - (l) Investments in subsidiaries to the extent allowed by section 382.020, RSMo;
 - (m) Any other investments not described herein provided the aggregate amount of such investments shall not exceed eight percent of the admitted assets of the company;
 - (n) Any investments in an investment pool meeting the requirements of section 379.083 and any other provision of law relating to investments made by individual property and casualty companies; [and]
 - (o) Any other investments expressly authorized in writing by the director of the department of insurance; **and**

(p) Any investment in a Missouri tax credit certificate or partnership interest which entitles the company to receive Missouri tax credits that may be used as a credit against the gross premium tax.

2. Violation of any of the provisions of this section by an insurer is grounds for the suspension or revocation of its certificate of authority by the director.

Approved July 12, 2002

HB 1580 [HB 1580]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Permits county boards of equalization to appoint two additional citizen members to the board.

AN ACT to repeal sections 138.010 and 138.020, RSMo, and to enact in lieu thereof two new sections relating to county boards of equalization.

SECTION

A. Enacting clause.

138.010. Membership of county board of equalization — annual meetings.

138.020. Members of board not to receive additional compensation, exception — compensation of county surveyor.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 138.010 and 138.020, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 138.010 and 138.020, to read as follows:

138.010. MEMBERSHIP OF COUNTY BOARD OF EQUALIZATION — ANNUAL MEETINGS.

— 1. Except as otherwise provided by law, in every county in this state there shall be a county board of equalization consisting of the commissioners of the county commission, the county assessor, the county surveyor, and the county clerk who shall be secretary of the board without a vote. **The county commissioners shall also have the option to appoint two additional members to the board who shall be citizens of the county, but not officers of the county.**

2. Except as provided in subsection 3 of this section, this board shall meet at the office of the county clerk on the second Monday of July of each year.

3. Upon a finding by the board that it is necessary in order to fairly hear all cases arising from a general reassessment, the board may begin meeting after May thirty-first in any applicable year to timely consider any appeal or complaint resulting from an evaluation made during a general reassessment of all taxable real property and possessory interests in the county.

138.020. MEMBERS OF BOARD NOT TO RECEIVE ADDITIONAL COMPENSATION, EXCEPTION — COMPENSATION OF COUNTY SURVEYOR. — The commissioners of the county commission, the county assessor, the county clerk, and those sitting as members as may otherwise be provided, who are now or may hereafter be compensated by salary shall not be entitled to additional compensation for the performance of their duties as members of the county board of equalization. The county surveyor shall be present and sit as a member of the county

board of equalization and shall receive as compensation a fee as agreed upon by the county commission. **Citizens who are not officers of the county, but who sit as members of the county board of equalization, may receive compensation if agreed upon by the county commission.**

Approved July 3, 2002

HB 1600 [SS#2 HB 1600]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires keepers of licensed pool tables to post information for players in no less than ten-point type.

AN ACT to repeal sections 318.100, 326.256, 326.271, 326.280, 326.283, 326.286, 326.289, 326.292 and 335.016, RSMo, and to enact in lieu thereof nine new sections relating to licensing requirements for public accountants and keepers of billiard tables, with penalty provisions.

SECTION

- A. Enacting clause.
- 318.100. Keepers of tables to display law.
- 326.256. Definitions.
- 326.271. Rulemaking authority, conduct of matters and continuing education.
- 326.280. License issued, when — reexamination and fees — temporary license issued, when.
- 326.283. Reciprocity for out-of-state accountants — licensee of this state committing act in another state, effect.
- 326.286. Issuance and renewal of licenses, when, term — license holder by foreign authority, state license issued, when.
- 326.289. Issuance and renewal of permits, procedure.
- 326.292. Issuance of reports on financial statements, license required — use of CPA or CA title, when — violations, penalty.
- 335.016. Definitions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 318.100, 326.256, 326.271, 326.280, 326.283, 326.286, 326.289, 326.292 and 335.016, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 318.100, 326.256, 326.271, 326.280, 326.283, 326.286, 326.289, 326.292 and 335.016, to read as follows:

318.100. KEEPERS OF TABLES TO DISPLAY LAW. — Every licensed keeper of one or more such tables mentioned in section 318.010 shall [post up] **display** in the room where the same is placed one or more placards, having section 318.090 conspicuously [written, painted or] **posted and** printed thereon, in letters [of] not [less] **smaller** than [one-quarter inch in size] **ten-point type**, for the information of players.

326.256. DEFINITIONS. — 1. As used in this chapter, the following terms mean:
(1) "AICPA", the American Institute of Certified Public Accountants;
(2) "Attest", providing the following financial statement services:
(a) Any audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);

(b) Any examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE);

(3) "Board", the Missouri state board of accountancy established pursuant to section 326.259 or its predecessor pursuant to prior law;

(4) "Certificate", a certificate issued pursuant to section 326.060 prior to August 28, 2001;

(5) "Certified public accountant" or "CPA", the holder of a certificate or license as defined in this section;

(6) "Certified public accountant firm", "CPA firm" or "firm", a sole proprietorship, a corporation, a partnership or any other form of organization issued a permit pursuant to section 326.289;

(7) "Client", a person or entity that agrees with a licensee or licensee's employer to receive any professional service;

(8) "Compilation", providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that is presented in the form of financial statements information that is the representation of management (owners) without undertaking to express any assurance on the statements;

(9) "License", a license issued pursuant to section 326.280, or a provisional license issued pursuant to section 326.283; or, in each case, an individual license or permit issued pursuant to corresponding provisions of prior law;

(10) "Licensee", the holder of a license as defined in this section;

(11) "Manager", a manager of a limited liability company;

(12) "Member", a member of a limited liability company;

(13) "NASBA", the National Association of State Boards of Accountancy;

(14) "Peer review", a study, appraisal or review of one or more aspects of the professional work of a licensee or certified public accountant firm that performs attest, review or compilation services, by licensees who are not affiliated either personally or through their certified public accountant firm being reviewed pursuant to the Standards for Performing and Reporting on Peer Reviews promulgated by the AICPA or such other standard adopted by regulation of the board which meets or exceeds the AICPA standards;

(15) "Permit", a permit to practice as a certified public accountant firm issued pursuant to section 326.289 or corresponding provisions of prior law or pursuant to corresponding provisions of the laws of other states;

(16) "Professional", arising out of or related to the specialized knowledge or skills associated with certified public accountants;

(17) "Public [accountancy] **accounting**":

(a) Performing or offering to perform for an enterprise, client or potential client one or more services involving the use of accounting or auditing skills, or one or more management advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters by a person, firm, limited liability company or professional corporation using the title "C.P.A." or "P.A." in signs, advertising, directory listing, business cards, letterheads or other public representations;

(b) Signing or affixing a name, with any wording indicating the person or entity has expert knowledge in accounting or auditing to any opinion or certificate attesting to the reliability of any representation or estimate in regard to any person or organization embracing financial information or facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, rules, grants, loans and appropriations; or

(c) Offering to the public or to prospective clients to perform, or actually performing on behalf of clients, professional services that involve or require an audit or examination of financial records leading to the expression of a written attestation or opinion concerning these records;

(18) "Report", when used with reference to financial statements, means an opinion, report or other form of language that states or implies assurance as to the reliability of any financial statements, and that also includes or is accompanied by any statement or implication that the

person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term report includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing such language, or both, and includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence, or both;

(19) "Review", providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that is performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statements for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting;

(20) "State", any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Guam; except that "this state" means the state of Missouri;

(21) "Substantial equivalency", a determination by the board of accountancy or its designee that the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination and experience requirements contained in this chapter or that an individual certified public accountant's education, examination and experience qualifications are comparable to or exceed the education, examination and experience requirements contained in this chapter;

(22) "Transmittal", any transmission of information in any form, including but not limited to any and all documents, records, minutes, computer files, disks or information.

2. The statements on standards specified in this section shall be adopted by reference by the board pursuant to rulemaking and shall be those developed for general application by the AICPA or other recognized national accountancy organization as prescribed by board rule.

326.271. RULEMAKING AUTHORITY, CONDUCT OF MATTERS AND CONTINUING EDUCATION. — 1. The board shall promulgate rules of procedure for governing the conduct of matters before the board.

2. The board shall promulgate rules of professional conduct for establishing and maintaining high standards of competence and integrity in the profession of public [accountancy] **accounting**.

3. In promulgating rules and regulations regarding the requirements of continuing education, the board:

(1) May use and rely upon guidelines and pronouncements of recognized educational and professional associations;

(2) May prescribe for content, duration and organization of courses;

(3) Shall consider applicant accessibility to continuing education as required by the board, and any impediments to the interstate practice of public [accountancy] **accounting** which may result from differences in requirements in states;

(4) May in its discretion relax or suspend continuing education requirements for instances of individual hardship;

(5) Shall not require the completion of more than one hundred twenty hours of continuing education or its equivalent in any three-year period, not more than one-third of which shall be required in any one year. The continuing education requirements must be capable of being fulfilled in programs or courses reasonably available to licensees within the state.

4. The board may require by rule licensees to submit any continuing education reporting as the board deems necessary.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This chapter and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

326.280. LICENSE ISSUED, WHEN — REEXAMINATION AND FEES — TEMPORARY LICENSE ISSUED, WHEN. — 1. A license shall be granted by the board to any person who meets the requirements of this chapter and who:

(1) Is a resident of this state or has a place of business in this state or, as an employee, is regularly employed in this state;

(2) Has attained the age of twenty-one years;

(3) Is of good moral character;

(4) Either:

(a) Applied for the initial examination prior to June 30, 1999, and holds a baccalaureate degree conferred by an accredited college or university recognized by the board, with a concentration in accounting or the substantial equivalent of a concentration in accounting as determined by the board; or

(b) Applied for the initial examination on or after June 30, 1999, and has at least one hundred fifty semester hours of college education, including a baccalaureate or higher degree conferred by an accredited college or university recognized by the board, with the total educational program including an accounting concentration or equivalent as determined by board rule to be appropriate;

(5) Has passed an examination in accounting, auditing and such other related subjects as the board shall determine is appropriate; and

(6) Has had one year of experience. Experience shall be verified by a licensee and shall include any type of service or advice involving the use of accounting, attest, review, compilation, management advisory, financial advisory, tax or consulting skills including governmental accounting, budgeting or auditing. The board shall promulgate rules and regulations concerning the verifying licensee's review of the applicant's experience.

2. The board [shall] **may** prescribe by rule the terms and conditions for reexaminations and fees to be paid for reexaminations.

3. A person who, on August 28, 2001, holds an individual permit issued pursuant to the laws of this state shall not be required to obtain additional licenses pursuant to sections 326.280 to 326.286, and the licenses issued shall be considered licenses issued pursuant to sections 326.280 to 326.286. However, such persons shall be subject to the provisions of section 326.286 for renewal of licenses.

4. Upon application, the board may issue a temporary license to an applicant pursuant to this subsection for a person who has made a prima facie showing that the applicant meets all of the requirements for a license and possesses the experience required. The temporary license shall be effective only until the board has had the opportunity to investigate the applicant's qualifications for licensure pursuant to subsection 1 of this section and notify the applicant that the applicant's application for a license has been granted or rejected. In no event shall a temporary license be in effect for more than twelve months after the date of issuance nor shall a temporary license be reissued to the same applicant. No fee shall be charged for a temporary license. The holder of a temporary license which has not expired, been suspended or revoked shall be deemed to be the holder of a license issued pursuant to this section until the temporary license expires, is terminated, suspended or revoked.

5. An applicant for an examination who meets the educational requirements of subdivision (4) of subsection 1 of this section or who reasonably expects to meet those requirements within sixty days after the examination shall be eligible for examination if the applicant also meets the requirements of subdivisions (1), (2) and (3) of subsection 1 of this section. For an applicant admitted to examination on the reasonable expectation that the applicant will meet the educational requirements within sixty days, no license shall be issued nor credit for the examination or any part thereof given unless the educational requirement is in fact met within the sixty-day period.

326.283. RECIPROCITY FOR OUT-OF-STATE ACCOUNTANTS — LICENSEE OF THIS STATE COMMITTING ACT IN ANOTHER STATE, EFFECT. — 1. (1) An individual whose principal place of business is not in this state and has a valid designation to practice public [accountancy] **accounting** from any state which the board has determined by rule to be in substantial equivalence with the licensure requirements of sections 326.250 to 326.331, or if the individual's qualifications are substantially equivalent to the licensure requirements of sections 326.250 to 326.331, shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of licensees of this state, provided the individual shall notify the board of his or her intent to engage in the practice of accounting with a client within this state whether in person, by electronic or technological means, or any other manner. The board by rule may require individuals to obtain a license.

(2) Any individual of another state exercising the privilege afforded pursuant to this section consents as a condition of the grant of this privilege to:

- (a) The personal and subject matter jurisdiction and disciplinary authority of the board;
- (b) Comply with this chapter and the board's rules; and
- (c) The appointment of the state board which issued the individual's license as his or her agent upon whom process may be served in any action or proceeding by this board against the individual.

(3) **Nothing in this section shall prohibit temporary practice in this state for professional business incidental to a CPA's regular practice outside this state. "Temporary practice" means that practice which is a continuation or extension of an engagement for a client located outside this state, which engagement began outside this state and extends into this state through common ownership, existence of a subsidiary, assets or other operations located within this state.**

2. A licensee of this state offering or rendering services or using his or her certified public accountant title in another state shall be subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline for an act committed in the other state. Notwithstanding the provisions of section 326.274 to the contrary, the board may investigate any complaint made by the board of accountancy of another state.

326.286. ISSUANCE AND RENEWAL OF LICENSES, WHEN, TERM — LICENSE HOLDER BY FOREIGN AUTHORITY, STATE LICENSE ISSUED, WHEN. — 1. The board may grant or renew licenses to persons who make application and demonstrate that[:

(1)] their qualifications, including the qualifications prescribed by section 326.280, are in accordance with this section[; or

(2) They are eligible under the substantial equivalency standard pursuant to subsection 1 of section 326.283].

2. Licenses shall be initially issued and renewed for periods of not more than three years and shall expire on the renewal date following issuance or renewal. Applications for licenses shall be made in such form, and in the case of applications for renewal, between such dates, as the board by rule shall specify. Application and renewal fees shall be determined by the board by rule.

3. With regard to applicants that do not qualify for reciprocity [under] **pursuant to subsection 1 of this section, or a provisional license through** the substantial equivalency

standard set out in subsection 1 of section 326.283, the board may issue a license to an applicant upon a showing that:

(1) The applicant passed the examination required for issuance of the applicant's certificate with grades that would have been passing grades at the time in this state;

(2) The applicant had four years of experience outside of this state of the type described in subdivision (6) of subsection 1 of section 326.280 or meets equivalent requirements prescribed by the board by rule, after passing the examination upon which the applicant's license was based and within the ten years immediately preceding the application; and

(3) If the applicant's certificate, license or permit was issued more than four years prior to the application for issuance of a license pursuant to this section, the applicant has fulfilled the requirements of continuing professional education that would have been applicable pursuant to subsection 6 of this section.

4. As an alternative to the requirements of subsection 3 of this section, a certified public accountant licensed by another state who establishes a principal place of business in this state shall request the issuance of a license from the board prior to establishing the principal place of business. The board may issue a license to the person who obtains verification from the NASBA National Qualification Appraisal Service that the individual's qualifications are substantially equivalent to the licensure requirements of sections 326.250 to 326.331.

5. An application pursuant to this section may be made through the NASBA Qualification Appraisal Service.

6. For renewal of a license pursuant to this section, each licensee shall participate in a program of learning designed to maintain professional competency. The program of learning shall comply with rules adopted by the board. The board may create by rule an exception to such requirement for licensees who do not perform or offer to perform for the public one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports on financial statements or of one or more kinds of management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. Licensees granted an exception by the board shall place the word "inactive" adjacent to their certified public accountant title on any business card, letterhead or any other document or device, except their certified public accountant certificate, on which their certified public accountant title appears.

7. Applicants for initial issuance or renewal of licenses pursuant to this section shall list all states in which they have applied for or hold certificates, licenses or permits and list any past denial, revocation or suspension or any discipline of a certificate, license or permit. Each holder of or applicant for a license shall notify the board in writing within thirty days after its occurrence of any issuance, denial, revocation or suspension or any discipline of a certificate, license or permit by another state.

8. The board may issue a license to a holder of a substantially equivalent foreign designation, provided that:

(1) The foreign authority which granted the designation makes similar provisions to allow a person who holds a valid license issued by this state to obtain such foreign authority's comparable designation; and

(2) The foreign designation:

(a) Was duly issued by a foreign authority that regulates the practice of public [accountancy] **accounting** and the foreign designation has not expired or been revoked or suspended;

(b) Entitles the holder to issue reports upon financial statements; and

(c) Was issued upon the basis of educational, examination and experience requirements established by the foreign authority or by law; and

(3) The applicant:

(a) Received the designation based on educational and examination standards substantially equivalent to those in effect in this state at the time the foreign designation was granted;

(b) Completed an experience requirement substantially equivalent to the requirement set out in subdivision (6) of subsection 1 of section 326.280 in the jurisdiction which granted the foreign designation or has completed four years of professional experience in this state, or meets equivalent requirements prescribed by the board by rule within the ten years immediately preceding the application; and

(c) Passed a uniform qualifying examination in national standards and an examination on the laws, regulations and code of ethical conduct in effect in this state acceptable to the board.

9. An applicant pursuant to subsection 8 of this section shall list all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public [accountancy] **accounting**. Each holder of a license issued pursuant to this subsection shall notify the board in writing within thirty days after its occurrence of any issuance, denial, revocation, suspension or any discipline of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.

10. The board has the sole authority to interpret the application of the provisions of subsections 8 and 9 of this section.

[11. The board shall require by rule as a condition for renewal of a license by any licensee who performs review or compilation services for the public other than through a certified public accountant firm that the individual undergo, no more frequently than once every three years, a peer review conducted in a manner as the board by rule shall specify, and the review shall include verification that the individual has met the competency requirements set out in professional standards for such services.]

326.289. ISSUANCE AND RENEWAL OF PERMITS, PROCEDURE. — 1. The board may grant or renew permits to practice as a certified public accounting firm to entities that make application and demonstrate their qualifications in accordance with this section or to certified public accounting firms originally licensed in another state that establish an office in this state. A firm shall hold a permit issued pursuant to this section to provide attest, review or compilation services or to use the title certified public accountant or certified public accounting firm.

2. Permits shall be initially issued and renewed for periods of not more than three years or for a specific period as prescribed by board rule following issuance or renewal.

3. The board shall determine by rule the form for application and renewal of permits and shall annually determine the fees for permits and their renewals.

4. An applicant for initial issuance or renewal of a permit to practice pursuant to this section shall be required to show that:

(1) Notwithstanding any other provision of law to the contrary, a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, principals, shareholders, members or managers, belongs to licensees who are licensed in some state, and the partners, officers, principals, shareholders, members or managers, whose principal place of business is in this state and who perform professional services in this state are licensees pursuant to section 326.280 or the corresponding provision of prior law. Although firms may include nonlicensee owners, the firm and its ownership shall comply with rules promulgated by the board;

(2) Any certified public accounting firm may include owners who are not licensees, provided that:

(a) The firm designates a licensee of this state who is responsible for the proper registration of the firm and identifies that individual to the board;

(b) All nonlicensee owners are active individual participants in the certified public accounting firm or affiliated entities;

(c) The firm complies with other requirements as the board may impose by rule;

(3) Any licensee, **initially licensed on or after August 28, 2001**, who is responsible for supervising attest[, review or compilation] services, or signs or authorizes someone to sign the licensee's report on the financial statements on behalf of the firm, shall meet competency

requirements as determined by the board by rule which shall include one year of experience in addition to the experience required pursuant to subdivision (6) of subsection 1 of section 326.280 and shall be verified by a licensee. The additional experience required by this subsection shall include experience in attest work supervised by a licensee;

(4) Any licensee who is responsible for supervising review services or signs or authorizes someone to sign review reports shall meet the competency requirements as determined by board by rule which shall include experience in review services.

5. An applicant for initial issuance or renewal of a permit to practice shall register each office of the firm within this state with the board and show that all attest, review and compilation services rendered in this state are under the charge of a licensee.

6. No licensee or firm holding a permit pursuant to this chapter shall use a professional or firm name or designation that is misleading as to:

- (1) The legal form of the firm;
 - (2) The persons who are partners, officers, members, managers or shareholders of the firm;
- or
- (3) Any other matter.

The names of one or more former partners, members or shareholders may be included in the name of a firm or its successor unless the firm becomes a sole proprietorship because of the death or withdrawal of all other partners, officers, members or shareholders. A firm may use a fictitious name if the fictitious name is registered with the board and is not otherwise misleading. The name of a firm shall not include the name **or initials** of an individual who is **not** a present or a past partner, member or shareholder of the firm or its predecessor. The name of the firm shall not include the name of an individual who is not a licensee.

7. Applicants for initial issuance or renewal of permits shall list in their application all states in which they have applied for or hold permits as certified public accounting firms and list any past denial, revocation, suspension or any discipline of a permit by any other state. Each holder of or applicant for a permit pursuant to this section shall notify the board in writing within thirty days after its occurrence of any change in the identities of partners, principals, officers, shareholders, members or managers whose principal place of business is in this state; any change in the number or location of offices within this state; any change in the identity of the persons in charge of such offices; and any issuance, denial, revocation, suspension or any discipline of a permit by any other state.

8. Firms which fall out of compliance with the provisions of this section due to changes in firm ownership or personnel after receiving or renewing a permit shall take corrective action to bring the firm back into compliance as quickly as possible. The board may grant a reasonable period of time for a firm to take such corrective action. Failure to bring the firm back into compliance within a reasonable period as defined by the board may result in the suspension or revocation of the firm permit.

9. The board shall require by rule, as a condition to the renewal of permits, that firms undergo, no more frequently than once every three years, peer reviews conducted in a manner as the board shall specify. The review shall include a verification that individuals in the firm who are responsible for supervising attest, review and compilation services or sign or authorize someone to sign the accountant's report on the financial statements on behalf of the firm meet the competency requirements set out in the professional standards for such services, provided that any such rule:

- (1) Shall include reasonable provision for compliance by a firm showing that it has within the preceding three years undergone a peer review that is a satisfactory equivalent to peer review generally required pursuant to this subsection;

- (2) May require, with respect to peer reviews, that peer reviews be subject to oversight by an oversight body established or sanctioned by board rule, which shall periodically report to the board on the effectiveness of the review program under its charge and provide to the board a

listing of firms that have participated in a peer review program that is satisfactory to the board; and

(3) Shall require, with respect to peer reviews, that the peer review processes be operated and documents maintained in a manner designed to preserve confidentiality, and that the board or any third party other than the oversight body shall not have access to documents furnished or generated in the course of the peer review of the firm except as provided in subdivision (2) of this subsection.

10. Prior to January 1, 2008, licensees who perform fewer than three attest services during each calendar year shall be exempt from the requirements of subsection 9 of this section.

11. The board may, by rule, charge a fee for oversight of peer reviews, provided that the fee charged shall be substantially equivalent to the cost of oversight.

12. In connection with proceedings before the board or upon receipt of a complaint involving the licensee performing peer reviews, the board shall not have access to any documents furnished or generated in the course of the performance of the peer reviews except for peer review reports, letters of comment and summary review memoranda. The documents shall be furnished to the board only in a redacted manner that does not specifically identify any firm or licensee being peer reviewed or any of their clients.

13. The peer review processes shall be operated and the documents generated thereby be maintained in a manner designed to preserve their confidentiality. No third party, other than the oversight body, the board, subject to the provisions of subsection 12 of this section, or the organization performing peer review shall have access to documents furnished or generated in the course of the review. All documents shall be privileged and closed records for all purposes and all meetings at which the documents are discussed shall be considered closed meetings pursuant to subdivision (1) of section 610.021, RSMo. The proceedings, records and workpapers of the board and any peer review subjected to the board process shall be privileged and shall not be subject to discovery, subpoena or other means of legal process or introduction into evidence at any civil action, arbitration, administrative proceeding or board proceeding. No member of the board or person who is involved in the peer review process shall be permitted or required to testify in any civil action, arbitration, administrative proceeding or board proceeding as to any matters produced, presented, disclosed or discussed during or in connection with the peer review process or as to any findings, recommendations, evaluations, opinions or other actions of such committees or any of its members; provided, however, that information, documents or records that are publicly available shall not be subject to discovery or use in any civil action, arbitration, administrative proceeding or board proceeding merely because they were presented or considered in connection with the peer review process.

326.292. ISSUANCE OF REPORTS ON FINANCIAL STATEMENTS, LICENSE REQUIRED — USE OF CPA OR CA TITLE, WHEN — VIOLATIONS, PENALTY. — 1. Only licensees may issue a report on financial statements of any person, firm, organization or governmental unit or offer to render or render any attest service. Such restriction shall not prohibit any act of a public official or public employee in the performance of the person's duties as such; nor prohibit the performance by any nonlicensee of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services and the preparation of nonattest financial statements. Nonlicensees may prepare financial statements and issue nonattest transmittals or information thereon which do not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS).

2. Only certified public accountants shall use or assume the title certified public accountant, or the abbreviation CPA or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such person is a certified public accountant. Nothing in this section shall prohibit:

(1) A certified public accountant whose certificate was in full force and effect, issued pursuant to the laws of this state prior to August 28, 2001, and who does not engage in the

practice of public accounting, auditing, bookkeeping or any similar occupation, from using the title certified public accountant or abbreviation CPA;

(2) A person who holds a certificate, then in force and effect, issued pursuant to the laws of this state prior to August 28, 2001, and who is regularly employed by or is a director or officer of a corporation, partnership, association or business trust, in his or her capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon relating to such corporation, partnership, association or business trust provided the capacity is so designated, and provided in the signature line the title CPA or certified public accountant is not designated.

3. No firm shall provide attest services or assume or use the title certified public accountants or the abbreviation CPAs, or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such firm is a certified public accounting firm unless:

(1) The firm holds a valid permit issued pursuant to section 326.289; and

(2) Ownership of the firm is in accord with section 326.289 and rules promulgated by the board.

4. Only persons holding a valid license or permit issued pursuant to section 326.280 or 326.289 shall assume or use the title certified accountant, chartered accountant, enrolled accountant, licensed accountant, registered accountant, accredited accountant or any other title or designation likely to be confused with the titles certified public accountant or public accountant, or use any of the abbreviations CA, LA, RA, AA or similar abbreviation likely to be confused with the abbreviation CPA or PA. The title enrolled agent or EA shall only be used by individuals so designated by the Internal Revenue Service. Nothing in this section shall prohibit the use or issuance of a title for nonattest services provided that the organization and the title issued by the organization existed prior to August 28, 2001.

5. (1) Nonlicensees shall not use language in any statement relating to the financial affairs of a person or entity that is conventionally used by certified public accountants in reports on financial statements. Nonlicensees may use the following safe harbor language:

(a) For compilations:

"I (We) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing in the form of a financial statement information that is the representation of management (owners). I (We) have not audited or reviewed the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.";

(b) For reviews:

"I (We) reviewed the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. These financial statements (information) are (is) the responsibility of the company's management. I (We) have not audited the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.".

(2) Only persons or firms holding a valid license or permit issued pursuant to section 326.280 or 326.289 shall assume or use any title or designation that includes the words accountant or accounting in connection with any other language, including the language of a report, that implies that the person or firm holds a license or permit or has special competence as an accountant or auditor; provided, however, that this subsection shall not prohibit any officer, partner, principal, member, manager or employee of any firm or organization from affixing such person's own signature to any statement in reference to the financial affairs of the firm or organization with any wording designating the position, title or office that the person holds therein nor prohibit any act of a public official or employee in the performance of the person's duties as such. Nothing in this subsection shall prohibit the singular use of "accountant" or "accounting" for nonattest purposes.

6. Licensees **signing or authorizing someone to sign reports on financial statements when** performing attest, review or compilation services shall provide those services in accordance with professional standards as determined by the board by rule.

7. No licensee or holder of a provisional license or firm holding a permit pursuant to sections 326.280 to 326.289 shall use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, principals, officers, members, managers or shareholders of the firm, or about any other matter.

8. None of the foregoing provisions of this section shall apply to a person or firm holding a certification, designation, degree or license granted in a foreign country entitling the holder to engage in the practice of public [accountancy] **accounting** or its equivalent in the country whose activities in this state are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds the entitlement, who performs no attest, review or compilation services and who issues no reports with respect to the financial statements of any other persons, firms or governmental units in this state, and who does not use in this state any title or designation other than the one under which the person practices in such country, followed by a translation of such title or designation into the English language, if it is in a different language, and by the name of such country.

9. No licensee whose license is issued pursuant to section 326.280 or issued pursuant to prior law shall perform attest services through any certified public accounting firm that does not hold a valid permit issued pursuant to section 326.289.

10. [No individual licensee shall issue a report in standard form upon a compilation or review of financial information through any form of business that does not hold a valid permit issued pursuant to section 326.289 unless the report discloses the name of the business through which the individual is issuing the report, and the individual:

- (1) Signs the compilation or review report identifying the individual as a licensee;
- (2) Meets the competency requirement provided in applicable standards; and
- (3) Undergoes, no less frequently than once every three years, a peer review conducted in a manner as the board by rule shall specify, and the review shall include verification that the individual has met the competency requirements set out in professional standards for such services.

11.] Nothing herein shall prohibit a practicing attorney or firm of attorneys from preparing or presenting records or documents customarily prepared by an attorney or firm of attorneys in connection with the attorney's professional work in the practice of law.

[12.] **11.** Nothing herein shall prohibit any trustee, executor, administrator, referee or commissioner from signing and certifying financial reports incident to his or her duties in that capacity.

[13.] **12.** Nothing herein shall prohibit any director or officer of a corporation, partner or a partnership, sole proprietor of a business enterprise, member of a joint venture, member of a committee appointed by stockholders, creditors or courts, or an employee of any of the foregoing, in his or her capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon, relating to the corporation, partnership, business enterprise, joint venture or committee, provided the capacity is designated on the statement or report.

[14.] **13.** (1) A licensee shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the licensee also performs for that client:

- (a) An audit or review of a financial statement; or
- (b) A compilation of a financial statement when the licensee expects, or reasonably may expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or
- (c) An examination of prospective financial information.

Such prohibition applies during the period in which the licensee is engaged to perform any of the services listed above and the period covered by any historical financial statements involved in such listed services.

(2) A licensee who is not prohibited by this section from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose in writing that fact to any person or entity to whom the licensee recommends or refers a product or service to which the commission relates.

(3) Any licensee who accepts a referral fee for recommending or referring any service of a licensee to any person or entity or who pays a referral fee to obtain a client shall disclose in writing the acceptance or payment to the client.

[15.] **14.** (1) A licensee shall not:

(a) Perform for a contingent fee any professional services for, or receive a fee from, a client for whom the licensee or the licensee's firm performs:

a. An audit or review of a financial statement; or

b. A compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

c. An examination of prospective financial information; [or]

(b) Prepare an original [or amended] tax return or claim for a tax refund for a contingent fee for any client; **or**

(c) Prepare an amended tax return or claim for a tax refund for a contingent fee for any client, unless permitted by board rule.

(2) The prohibition in subdivision (1) of this subsection applies during the period in which the licensee is engaged to perform any of those services and the period covered by any historical financial statements involved in any services.

(3) A contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of the service. Solely for purposes of this section, fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies. A licensee's fees may vary depending, for example, on the complexity of services rendered.

[16.] **15.** Any person who violates any provision of subsections 1 to 5 of this section shall be guilty of a class A misdemeanor. Whenever the board has reason to believe that any person has violated this section it may certify the facts to the attorney general of this state or bring other appropriate proceedings.

335.016. DEFINITIONS. — As used in [sections 335.011 to 335.096] **this chapter**, unless the context clearly requires otherwise, the following words and terms mean:

(1) "Accredited", the official authorization or status granted by an agency for a program through a voluntary process;

(2) "Advanced practice nurse", a nurse who has had education beyond the basic nursing education and is certified by a nationally recognized professional organization as having a nursing specialty, or who meets criteria for advanced practice nurses established by the board of nursing. The board of nursing may promulgate rules specifying which professional nursing organization certifications are to be recognized as advanced practice nurses, and may set standards for education, training and experience required for those without such specialty certification to become advanced practice nurses;

(3) "Approval", official recognition of nursing education programs which meet standards established by the board of nursing;

(4) "Board" or "state board", the state board of nursing;

(5) "Executive director", a qualified [registered professional nurse] **individual** employed by the board as executive secretary or otherwise to administer the provisions of [sections 335.011 to 335.096] **this chapter** under the board's direction. Such person employed as executive director shall not be a member of the board;

- (6) "Inactive nurse", as defined by rule pursuant to section 335.061;
- (7) A "licensed practical nurse" or "practical nurse", a person licensed pursuant to the provisions of [sections 335.011 to 335.096] **this chapter** to engage in the practice of practical nursing;
- (8) "Licensure", the issuing of a license to practice professional or practical nursing to candidates who have met the specified requirements and the recording of the names of those persons as holders of a license to practice professional or practical nursing;
- (9) "Practical nursing", the performance for compensation of selected acts for the promotion of health and in the care of persons who are ill, injured, or experiencing alterations in normal health processes. Such performance requires substantial specialized skill, judgment and knowledge. All such nursing care shall be given under the direction of a person licensed by a state regulatory board to prescribe medications and treatments or under the direction of a registered professional nurse. For the purposes of this chapter, the term "direction" shall mean guidance or supervision provided by a person licensed by a state regulatory board to prescribe medications and treatments or a registered professional nurse, including, but not limited to, oral, written, or otherwise communicated orders or directives for patient care. When practical nursing care is delivered pursuant to the direction of a person licensed by a state regulatory board to prescribe medications and treatments or under the direction of a registered professional nurse, such care may be delivered by a licensed practical nurse without direct physical oversight;
- (10) "Professional nursing", the performance for compensation of any act which requires substantial specialized education, judgment and skill based on knowledge and application of principles derived from the biological, physical, social and nursing sciences, including, but not limited to:
- (a) Responsibility for the teaching of health care and the prevention of illness to the patient and his or her family;
 - (b) Assessment, nursing diagnosis, nursing care, and counsel of persons who are ill, injured or experiencing alterations in normal health processes;
 - (c) The administration of medications and treatments as prescribed by a person licensed by a state regulatory board to prescribe medications and treatments;
 - (d) The coordination and assistance in the delivery of a plan of health care with all members of a health team;
 - (e) The teaching and supervision of other persons in the performance of any of the foregoing;
- (11) A "registered professional nurse" or "registered nurse", a person licensed pursuant to the provisions of [sections 335.011 to 335.096] **this chapter** to engage in the practice of professional nursing.

Approved July 11, 2002

HB 1634 [SCS HB 1634]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes expense funding requirements for certain land trusts.

AN ACT to repeal sections 52.250, 52.290, 141.610, 141.720, 141.750, 141.770, 141.790, 447.620, 447.622, 447.625, 447.632, 447.636, 447.638 and 447.640, RSMo, relating to land trusts and transfers, and to enact in lieu thereof twenty-five new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 52.250. Fees for mailing statements and receipts to be deposited in county treasury (third and fourth class counties).
- 52.290. Collection of back taxes, certain counties — fee deposited in county general revenue fund and retirement fund — collection of back taxes, certain political subdivisions, fee.
- 52.312. Tax maintenance fund established, use of money.
- 52.315. Monthly deposits in tax maintenance fund — additional uses of money — audit of fund.
- 52.317. Moneys provided for budget purposes, requirements — moneys remaining in fund at end of calendar year, requirements.
- 54.323. Tax maintenance fund established in certain counties of the third and fourth classification.
- 54.325. Delinquent and back taxes, additional amount to be collected by ex officio collector, use of moneys — audit of fund.
- 54.327. Moneys provided for budget purposes in certain counties of the third and fourth classification — moneys remaining in fund at end of calendar year, requirements.
- 141.610. Court administrator's, sheriff's deed, effect — action to set aside, limitations (charter counties).
- 141.720. Composition of land trust — terms — qualifications — vacancies — compensation — removal (charter counties).
- 141.750. Land trust, seal, powers, conveyances (charter counties).
- 141.770. Annual budget — public hearing — administrative costs, how paid — fiscal year — payment of claim by land trust — performance audits permitted, when (charter counties).
- 141.790. Accounts relating to each parcel of real estate — proceeds of sale — distribution (charter counties).
- 447.620. Definitions.
- 447.622. Petition, requirements.
- 447.625. Procedures in certain cities (Jackson County).
- 447.632. Grant of petition, requirements.
- 447.636. Quarterly report.
- 447.638. Restoration of possession, compensation.
- 447.640. Quitclaim judicial deed may be granted, conditions, effect.
 1. Conveyance of property owned by state in Battle of Athens State Historic Site to Robert F. French trust.
 2. Conveyance of property at Cuivre River State Park to Steve and Ellen Piacentini.
 3. Conveyance of property at Washington State Park to Rachel DeClue and Patricia Westoff.
 4. Conveyance of property at Washington State Park to Oscar and Margaret Rulo.
 5. Conveyance of certain land in Jefferson County.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 52.250, 52.290, 141.610, 141.720, 141.750, 141.770, 141.790, 447.620, 447.622, 447.625, 447.632, 447.636, 447.638 and 447.640, RSMo, are repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 52.250, 52.290, 52.312, 52.315, 52.317, 54.323, 54.325, 54.327, 141.610, 141.720, 141.750, 141.770, 141.790, 447.620, 447.622, 447.625, 447.632, 447.636, 447.638, 447.640, 1, 2, 3, 4 and 5, to read as follows:

52.250. FEES FOR MAILING STATEMENTS AND RECEIPTS TO BE DEPOSITED IN COUNTY TREASURY (THIRD AND FOURTH CLASS COUNTIES). — The collectors in third class counties shall collect a fee of one-half of one percent [and the collectors in fourth class counties shall collect a fee of one percent] of all current taxes collected, including current delinquent taxes, exclusive of all current railroad and utility taxes collected **on behalf of the county**, as compensation for mailing the statements and receipts. All fees collected pursuant to this section shall be collected on behalf of the county and shall be paid into the county treasury. **Notwithstanding any provisions of law to the contrary, or any other provision of law in conflict with the provisions of this section, in all counties which become counties of the second or fourth classification after December 31, 2000, one-half of one percent of all current taxes collected, including current delinquent taxes allocable to each taxing authority within the county and the county shall continue to be deducted each year for mailing the statements and receipts, exclusive of all current railroad and utility taxes collected, and shall be deposited into the county general fund as required by this section as if the county had retained its classification as a county of either the third or the fourth**

classification. Collectors in third and fourth class counties are entitled to collect such fees immediately upon an order of the circuit court [under] **pursuant to** section 139.031, RSMo. If the protest is later sustained and a portion of the taxes so paid is returned to the taxpayer the county shall return that portion of the fee collected on the amount returned to the taxpayer. **Such county collector may accept credit cards as proper form of payment of outstanding taxes due. No county collector may charge a surcharge for payment by credit card which exceeds the fee or surcharge charged by the credit card bank for its service.**

52.290. COLLECTION OF BACK TAXES, CERTAIN COUNTIES — FEE DEPOSITED IN COUNTY GENERAL REVENUE FUND AND RETIREMENT FUND — COLLECTION OF BACK TAXES, CERTAIN POLITICAL SUBDIVISIONS, FEE. — 1. In all counties except counties of the first classification having a charter form of government and any city not within a county, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of [five] **seven** percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. [Two-fifths] **Two-sevenths** of the fees collected [under] **pursuant to** the provisions of this section shall be paid into the county general fund, **two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the tax maintenance fund of the county as required by section 52.312** and [three-fifths] **three-sevenths** of the fees collected [under] **pursuant to** the provisions of this section shall be paid into the county employees' retirement fund created by sections 50.1000 to 50.1200, RSMo.

2. In all counties of the first classification having a charter form of government and any city not within a county, the collector shall collect on behalf of the county and pay into the county general fund a fee for the collection of delinquent and back taxes of two percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax **except that in a county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of three percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. Two-thirds of the fees collected pursuant to the provisions of this section shall be paid into the county general fund and one-third of the fees collected pursuant to this section shall be paid into the tax maintenance fund of the county as required by section 52.312, RSMo.**

3. Such county collector may accept credit cards as proper form of payment of outstanding delinquent and back taxes due. No county collector may charge a surcharge for payment by credit card.

52.312. TAX MAINTENANCE FUND ESTABLISHED, USE OF MONEY. — Notwithstanding any provisions of law to the contrary, in addition to fees provided for in this chapter, or any other provisions of law in conflict with the provisions of this section, all counties, including a county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants other than counties of the first classification having a charter form of government and any city not within a county, subject to the provisions of this section, shall establish a fund to be known as the "Tax Maintenance Fund" to be used solely as a depository for funds received or collected for the purpose of funding additional costs and expenses incurred in the office of collector.

52.315. MONTHLY DEPOSITS IN TAX MAINTENANCE FUND — ADDITIONAL USES OF MONEY — AUDIT OF FUND. — 1. The two-sevenths collected to fund the tax maintenance fund pursuant to section 52.290, shall be transmitted monthly for deposit into the tax maintenance fund and used for additional administration and operation costs for the office of collector. Any costs shall include, but shall not be limited to, those costs that require any additional out-of-pocket expense by the office of collector and it may include

reimbursement to county general revenue for the salaries of employees of the office of collector for hours worked and any other expenses necessary to conduct and execute the duties and responsibilities of such office.

2. The tax maintenance fund may also be used by the collector for training, purchasing new or upgrading information technology, equipment or other essential administrative expenses necessary to carry out the duties and responsibilities of the office of collector, including anything necessarily pertaining thereto.

3. The collector has the sole responsibility for all expenditures made from the tax maintenance fund and shall approve all expenditures from such fund. All such expenditures from the tax maintenance fund shall not be used to substitute for or subsidize any allocation of county general revenue for the operation of the office of collector.

4. The tax maintenance fund may be audited by the appropriate auditing agency. Any unexpended balance shall be left in the tax maintenance fund, to accumulate from year to year with interest.

52.317. MONEYS PROVIDED FOR BUDGET PURPOSES, REQUIREMENTS — MONEYS REMAINING IN FUND AT END OF CALENDAR YEAR, REQUIREMENTS. — Any county subject to the provisions of section 52.312 shall provide moneys for budget purposes in an amount not less than the approved budget in the previous year and shall include the same percentage adjustments in compensation as provided for other county employees as effective January first each year. Any moneys accumulated and remaining in the tax maintenance fund as of December thirty-first each year in all counties of the first classification without a charter form of government and any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants shall be limited to an amount equal to one-half of the previous year's approved budget for the office of collector, and any moneys accumulated and remaining in the tax maintenance fund as of December thirty-first each year in all counties other than counties of the first classification and any city not within a county, which collect more than four million dollars of all current taxes charged to be collected, shall be limited to an amount equal to the previous year's approved budget for the office of collector. Any moneys remaining in the tax maintenance fund as of December thirty-first each year that exceed the above established limits shall be transferred to county general revenue by the following January fifteenth of each year.

54.323. TAX MAINTENANCE FUND ESTABLISHED IN CERTAIN COUNTIES OF THE THIRD AND FOURTH CLASSIFICATION. — Notwithstanding any provisions of law to the contrary, in addition to fees provided for in this chapter, or any other provisions of law in conflict with the provisions of this section, all counties of the third and fourth classification adopting township organization subject to the provisions of this section, shall establish a fund to be known as the "Tax Maintenance Fund" to be used solely as a depository for funds received or collected for the purpose of funding additional costs and expenses incurred in the office of treasurer ex officio collector.

54.325. DELINQUENT AND BACK TAXES, ADDITIONAL AMOUNT TO BE COLLECTED BY EX OFFICIO COLLECTOR, USE OF MONEYS — AUDIT OF FUND. — 1. In addition to the fees collected on all delinquent and back taxes by any treasurer ex officio collector pursuant to the provisions of this chapter and chapter 50, RSMo, such ex officio collector shall collect an additional two percent on all delinquent and back taxes and these additional fees shall be transmitted monthly for deposit into the tax maintenance fund pursuant to the provisions of section 54.323 and used for additional administration and operation costs for the office of treasurer ex officio collector. Any costs shall include, but shall not be limited to, those costs that require any additional out-of-pocket expense by the office of treasurer

ex officio collector and it may include reimbursement to county general revenue for the salaries of employees of the office of treasurer ex officio collector for hours worked and any other expenses necessary to conduct and execute the duties and responsibilities of such office.

2. The tax maintenance fund may also be used by the treasurer ex officio collector for training, purchasing new or upgrading information technology, equipment or other essential administrative expenses necessary to carry out the duties and responsibilities of the office of treasurer ex officio collector, including anything necessarily pertaining thereto.

3. The treasurer ex officio collector has the sole responsibility for all expenditures made from the tax maintenance fund and shall approve all expenditures from such fund. All such expenditures from the tax maintenance fund shall not be used to substitute for or subsidize any allocation of county general revenue for the operation of the office of treasurer ex officio collector.

4. The tax maintenance fund may be audited by the appropriate auditing agency. Any unexpended balance shall be left in the tax maintenance fund, to accumulate from year to year with interest.

54.327. MONEYS PROVIDED FOR BUDGET PURPOSES IN CERTAIN COUNTIES OF THE THIRD AND FOURTH CLASSIFICATION — MONEYS REMAINING IN FUND AT END OF CALENDAR YEAR, REQUIREMENTS. — Any county of the third and fourth classification adopting township organization shall provide moneys for budget purposes in an amount not less than the approved budget in the previous year and shall include the same percentage adjustments in compensation as provided for other county employees as effective January first each year. Any moneys accumulated and remaining in the tax maintenance fund as of December thirty-first each year in all counties of the third and fourth classification adopting township organization shall be limited to an amount equal to the previous year's approved budget for the office of treasurer ex officio collector. Any moneys remaining in the tax maintenance fund as of December thirty-first each year that exceed the above established limits shall be transferred to county general revenue by the following January fifteenth of each year.

141.610. COURT ADMINISTRATOR'S, SHERIFF'S DEED, EFFECT — ACTION TO SET ASIDE, LIMITATIONS (CHARTER COUNTIES). — Each court administrator's or sheriff's deed given pursuant to the provisions of the land tax collection law shall be presumptive evidence that the suit and all proceedings therein and all proceedings prior thereto from and including assessment of the lands affected thereby and all notices required by law were regular and in accordance with all provisions of the law relating thereto. **The court administrator or sheriff shall record its deed and shall collect said recording fee at the time of sale.** After [two years] **one year** from the date of the [recording of such] court administrator's [or sheriff's deed] **foreclosure sale**, the presumption shall be conclusive pursuant to sections 141.210 to 141.810. Notwithstanding section 516.010, RSMo, no suit to set aside or to attack the validity of any such court administrator's or sheriff's deed shall be commenced or maintained unless the suit is filed within [two years] **one year** from the date of the court administrator's [or sheriff's deed is recorded] **foreclosure sale**.

141.720. COMPOSITION OF LAND TRUST — TERMS — QUALIFICATIONS — VACANCIES — COMPENSATION — REMOVAL (CHARTER COUNTIES). — 1. The land trust shall be composed of three members, one of whom shall be appointed by the county **executive, or if the county does not have a county executive, the county** commission of the county, one of whom shall be appointed by the city council of that city in the county which then has the largest population according to the last preceding federal decennial census, and one of whom shall be

appointed by the board of directors of the school district which then has the largest population according to such census in the county.

2. The terms of office of the land trustees shall be for four years each, except the terms of the first land trustees who shall be appointed by the foregoing appointing authorities, respectively, not sooner than twelve months and not later than eighteen months after sections 141.210 to 141.810 take effect.

3. Each land trustee shall have been a resident of the county for at least five years next prior to appointment, shall not hold other salaried or compensated public office by election or appointment during service as land trustee, the duties of which would in any way conflict with his duties as land trustee, and shall have had at least ten years experience in the management or sale of real estate.

4. Of the first land trustees appointed under sections 141.210 to 141.810, the land trustee appointed by the county commission shall serve for a term ending February 1, 1946, the land trustee appointed by the board of directors of the school district then having the largest population in the county shall serve for a term expiring February 1, 1947, and the land trustee appointed by the city council of the city then having the largest population in the county shall serve for a term expiring February 1, 1948. Each land trustee shall serve until his successor has been appointed and qualified.

5. Any vacancy in the office of land trustee shall be filled for the unexpired term by the same appointing authority which made the original appointment. If any appointing authority fails to make any appointment of a land trustee within the time the first appointments are required by sections 141.210 to 141.810 to be made, or within thirty days after any term expires or vacancy occurs, then the appointment shall be made by the mayor of that city in the county then having the largest population, according to the last preceding federal decennial census.

6. The members shall receive for their services as land trustees a salary of two thousand four hundred dollars per year.

7. Each land trustee may be removed for cause by the respective appointing authority, after public hearing, if requested by the land trustee, and an opportunity to be represented by counsel and to present evidence is afforded the trustee.

141.750. LAND TRUST, SEAL, POWERS, CONVEYANCES (CHARTER COUNTIES). — 1. Such land trust shall be a continuing body and shall have and adopt an official seal which shall bear on its face the words "Land Trust of County, Missouri", "Seal", and shall have the power to sue and issue deeds in its name, which deed shall be signed by the chairman or vice chairman, and attested by the secretary or assistant secretary and the official seal of the land trust affixed thereon, and shall have the general power to administer its business as any other corporate body.

2. The land trust may convey title to any real estate sold or conveyed by it by general or special warranty deed, and may convey an absolute title in fee simple, without in any case procuring any consent, conveyance or other instrument from the beneficiaries for which it acts; provided, however, that each such deed shall recite whether the selling price represents a consideration equal to or in excess of two-thirds of the appraised value of such real estate so sold or conveyed, and if such selling price represents a consideration less than two-thirds of the appraised value of said real estate, then the land trustees shall first procure the consent thereto of not less than two of the three appointing authorities, which consent shall be evidenced by a copy of the action of each such appointing authority duly certified to by its clerk or secretary attached to and made a part of said deed, **except the land trust may sell or convey a vacant residential tract of land containing four thousand square feet or less with an assessed value of less than two hundred fifty dollars to the owner or owners of residential property contiguous to the tract being sold for a price equal to fifty percent of the assessed value of the tract without first obtaining an appraisal of the tract.**

141.770. ANNUAL BUDGET — PUBLIC HEARING — ADMINISTRATIVE COSTS, HOW PAID — FISCAL YEAR — PAYMENT OF CLAIM BY LAND TRUST — PERFORMANCE AUDITS PERMITTED, WHEN (CHARTER COUNTIES). — 1. Each annual budget of the land trust shall be itemized as to objects and purposes of expenditure, prepared not later than December [fifteenth] **tenth** of each year **with copies delivered to the county and city that appointed trustee members**, and shall include therein only such appropriations as shall be deemed necessary to meet the reasonable expenses of the land trust during the forthcoming fiscal year. **That budget shall not become the required annual budget of the land trust unless and until it has been approved by the governing bodies of the county or city that appointed trustee members. If either of the governing bodies of the county and city that appointed trustee members fail to notify the land trust in writing of any objections to the proposed annual budget on or before December twentieth, then such failure or failures to object shall be deemed approval. In the event objections have been made and a budget for the fiscal year beginning January first has not been approved by the governing bodies of the county and city on or before January first, then the budget for the previous fiscal year shall become the approved budget for that fiscal year.** Any unexpended funds from the preceding fiscal year shall be deducted from the amounts needed to meet the budget requirements of the forthcoming year.

2. Copies of the budget shall be made available to the public on or before December [fifteenth] **tenth**, and a public hearing shall be had thereon prior to December twentieth, in each year. **The approved and adopted budget may be amended by the trustee members only with the approval of the governing bodies of the county and city that appointed trustee members.**

3. **If at any time there are not sufficient funds available to pay** the salaries and other expenses of such land trust and of its employees, incident to the administration of sections 141.210 to 141.810, including any expenditures authorized by section 141.760, **funds sufficient to pay such expenses** shall be advanced and paid to the land trust upon its requisition therefor, fifty percent thereof by the county commission of such county, and the other fifty percent by all of the municipalities in such county as defined in section 141.220, in proportion to their assessed valuations at the time of their last completed assessment for state and county purposes. The land trust shall have power to requisition **such funds in an amount** not to exceed twenty-five [thousand dollars] **percent of the total annual budget of the land trust** from such sources for [each] **that** fiscal year of the land trust **for which there are not sufficient funds otherwise available to pay the salaries and other expenses of the land trust**, but any amount in excess of twenty-five [thousand dollars per] **percent of the total annual budget in any fiscal year** may be requisitioned by and paid to the land trust only if such additional sums are agreed to and approved by the county commission and the respective municipalities in such county so desiring to make such payment. All moneys so requisitioned shall be paid in a lump sum within thirty days after **such requisition or** the commencement of [each] **the** fiscal year of the land trust **for which such requisition is made, whichever is later**, and shall be deposited to the credit of the land trust in some bank or trust company, subject to withdrawal by warrant as herein provided.

4. The fiscal year of the land trust shall commence on January first of each year. [Said] **Such** land trust shall audit all claims for the expenditure of money, and shall, acting by the chairman or vice chairman thereof, draw warrants therefor from time to time.

5. No warrant for the payment of any claim shall be drawn by such land trust until such claim shall have been approved by the land commissioner and shall bear [his] **the commissioner's** certificate that there is a sufficient unencumbered balance in the proper appropriation and sufficient unexpended cash available for the payment thereof. For any certification contrary thereto, such land commissioner shall be liable personally and on [his] **the commissioner's** official bond for the amounts so certified, and shall thereupon be promptly removed from office by the land trustees.

6. In addition to the annual audit provided for in section 141.760, the land trust may be performance audited at any time by the state auditor or by the auditor of any home rule city with more than four hundred thousand inhabitants and located in more than one county that is a member of the land trust. The cost of such audit shall be paid by the land trust, and copies shall be made available to the public within thirty days of the completion of the audit.

141.790. ACCOUNTS RELATING TO EACH PARCEL OF REAL ESTATE — PROCEEDS OF SALE — DISTRIBUTION (CHARTER COUNTIES). — 1. Such land trust shall set up accounts on its books relating to the operation, management, or other expense of each individual parcel of real estate.

2. When any parcel of real estate is sold or otherwise disposed of by the land trust, the proceeds therefrom shall be applied and distributed in the following order:

- (1) To the payment of the expenses of sale;
- (2) To the payment of any penalties, attorney's fees or costs which were included in the judgment originally entered against said parcel of real estate, plus its proportional part of the costs of sheriff's foreclosure sale, as shown on the books of the collector;
- (3) To the payment of the costs of the care, improvement, operation, and management of such parcel of real estate as determined by the land trustees and apportioned to such parcel;
- (4) The balance to be **retained by the land trust to pay the salaries and other expenses of such land trust and of its employees, incident to the administration of sections 141.210 to 141.810, including any expenditures authorized by section 141.760, as provided for in its annual budget;**

(5) **Any funds in excess of those necessary to meet the expenses of the annual budget of the land trust in any fiscal year, and including a reasonable sum to carry over into the next fiscal year to assure that sufficient funds will be available to meet initial expenses for that next fiscal year, may be** paid to the respective taxing authorities and tax bill owners, if any, in the proportion that the principal amounts of the tax bills of each such party bears to the total principal amount of all the tax bills included in the original judgment relating to such parcel of real estate and in the order of their respective priorities. After deduction of all sums charged to each account for various expenses, distribution shall be made to the respective taxing authorities and to tax bill owners having an interest in such parcel of real estate, on January first and July first of each year, and at such other times as the land trustees in their discretion may determine.

447.620. DEFINITIONS. — As used in sections 447.620 to 447.640, the following terms mean:

(1) "Housing code", a local building, fire, health, property maintenance, nuisance or other ordinance which contains standards regulating the condition or maintenance of residential buildings;

(2) "Last known address", the address where the property is located or the address as listed in the property tax records;

(3) ["Low- or moderate-income housing", housing for persons and families who lack the amount of income necessary to rent or purchase adequate housing without financial assistance, as defined by such income limits as shall be established by the Missouri housing development commission for the purposes of determining eligibility under any program aimed at providing housing for low- and moderate-income families or persons;

(4)] "Municipality", any incorporated city, town or village;

[(5)] (4) "Nuisance", any property which because of its physical condition or use is a public nuisance or any property which constitutes a blight on the surrounding area or any property which is in violation of the applicable housing code such that it constitutes a substantial threat to the life, health or safety of the public. For purposes of sections 447.620 to 447.640, any declaration of a public nuisance by a municipality pursuant to an ordinance adopted pursuant to

sections 67.400 to 67.450, RSMo, shall constitute prima facie evidence that the property is a nuisance;

[(6)] **(5)** "Organization", any Missouri not-for-profit organization validly organized pursuant to law and whose purpose includes the provision or enhancement of housing opportunities in its community;

[(7)] **(6)** "Parties in interest", any owner or owners of record, occupant, lessee, mortgagee, trustee, personal representative, agent or other party having an interest in the property as shown by the land records of the recorder of deeds of the county wherein the property is located, except in any municipality contained wholly or partially within a county [with a population of over six hundred thousand and less than nine hundred thousand] **with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants**, "parties in interest" shall mean owners, lessees, mortgagees or lienholders whose interest has been recorded or filed in the public records;

[(8)] **(7)** "Rehabilitation", the process of improving the property, including, but not limited to, bringing the property into compliance with the applicable housing code.

447.622. PETITION, REQUIREMENTS. — Any organization may petition to have property declared abandoned pursuant to the provisions of sections 447.620 to 447.640 and for temporary possession of such property, if:

- (1) The property has been continuously unoccupied by persons legally entitled to possession for at least one month prior to the filing of the petition;
- (2) The taxes are delinquent on the property;
- (3) The property is a nuisance; and
- (4) The organization intends to rehabilitate the property [and use the property as low- or moderate-income housing].

447.625. PROCEDURES IN CERTAIN CITIES (JACKSON COUNTY). — 1. Any petition filed under the provisions of sections 447.620 to 447.640 which pertains to property located within any [municipality contained wholly or partially within a county with a population of over six hundred thousand and less than nine hundred thousand] **home rule city with more than four hundred thousand inhabitants and located in more than one county** shall meet the requirements of this section.

2. Summons shall be issued and service of process shall be had as in other in rem or quasi in rem civil actions.

3. The petition shall contain a prayer for a court order approving the organization's rehabilitation plan and granting temporary possession of the property to the organization. The petition shall also contain a prayer for a sheriff's deed conveying title to the property to the organization [at the expiration of the one-year period following entry of the order granting temporary possession of the property to the organization] **upon the completion of rehabilitation** when no owner has regained possession of the property pursuant to section [447.438] **447.638**.

4. The court shall stay any ruling on the organization's prayer for a sheriff's deed until [the one-year period has expired] **rehabilitation has been completed**.

5. The owner [shall be entitled to regain possession of the property by motion instead of a new petition under section 447.638. The compensation to be paid shall be set] **may file a motion for restoration of possession of the property prior to the completion of rehabilitation. The court shall determine whether to restore possession to the owner and proper compensation to the organization** in the same manner as in section 447.638.

6. [The] **Upon completion of rehabilitation** the organization may file a motion for sheriff's deed in place of a petition for judicial deed under section 447.640.

7. The provisions of sections 447.620 to 447.640 shall apply except where they are in conflict with this section.

447.632. GRANT OF PETITION, REQUIREMENTS. — The court shall grant the organization's petition if the court finds that the conditions alleged by the plaintiff as specified in section 447.622 [exist] **existed at the time the verified petition was filed in the circuit court**, that the plan for the rehabilitation of the property submitted to the court by the plaintiff is feasible and defendant has failed to demonstrate that the plaintiff should not be allowed to rehabilitate the property.

447.636. QUARTERLY REPORT. — The organization shall file [an annual] **a quarterly** report of its rehabilitation and use of the property, including a statement of all expenditures made by the organization and all income and receipts from the property for the preceding [years] **quarters**.

447.638. RESTORATION OF POSSESSION, COMPENSATION. — The owner [shall be entitled to regain possession of the property by petitioning] **may petition** the circuit court for restoration of possession **of the property** and, upon due notice to the plaintiff organization, for a hearing on such petition. At the hearing, the court shall determine **whether the owner has the capacity and the resources to complete rehabilitation of the property if such work has not been completed by the organization. If the court determines that the owner does not have the capacity or the resources to complete rehabilitation of the property, the court shall not restore possession to the owner. If the court determines that the rehabilitation work has been completed by the organization or that the owner has the capacity and the resources to complete the rehabilitation, the court shall then determine** proper compensation to the organization for its expenditures, including management fees, based on the organization's reports to the court. The court, in determining the proper compensation to the organization, may consider income or receipts received from the property by the organization. After the owner pays the compensation to the organization as determined by the court, the owner shall resume possession of the property, subject to all existing rental agreements, whether written or verbal, entered into by the organization.

447.640. QUITCLAIM JUDICIAL DEED MAY BE GRANTED, CONDITIONS, EFFECT. — If an owner [takes no action to] **does not** regain possession of the property in the one-year period following entry of an order granting temporary possession of the property to the organization, the organization may file a petition for judicial deed and, upon due notice to the named defendants, an order may be entered granting a quitclaim judicial deed to the organization. A conveyance by judicial deed shall operate to extinguish all existing ownership interests in, liens on, and other interest in the property, except tax liens.

SECTION 1. CONVEYANCE OF PROPERTY OWNED BY STATE IN BATTLE OF ATHENS STATE HISTORIC SITE TO ROBERT F. FRENCH TRUST. — **1.** The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in the Battle of Athens State Historic Site to the Robert F. French Trust. The property to be conveyed is more particularly described as follows:

All that part of the Southwest quarter of section nineteen in Township sixty seven North, Range seven West described in instrument recorded at microfilm drawer 3M card 2156 of the Clark county records being WEST of the following described line. Beginning at the Southeast corner of a tract of land described in instrument recorded at microfilm drawer 9M card 926 of the Clark County records and shown on survey dated February 05, 1999 recorded with the Department of Natural Resources as Document number 750-26794, thence along the south boundary of section nineteen North 87 degrees 03' 25" West 8.0 feet to a fence and the true point of beginning, thence along said fence North 3 degrees 00' 33" East 1139.6 feet, thence North 4 degrees 38' 44" East 956.9 feet to a corner

fence post, thence continue North 4 degrees 38' 44" East on a projection of the fence to the low water mark of the Des Moines River.

2. In consideration for the conveyance in subsection 1 of this section, the Missouri department of natural resources is hereby authorized to receive via quitclaim deed property from the Robert F. French Trust. The property to be conveyed to the department is more particularly described as follows:

All that part of the Southwest quarter of section nineteen in Township sixty seven North, Range seven West described in instrument recorded at microfilm drawer 3M card 2156 of the Clark county records being EAST of the following described line. Beginning at the Southeast corner of a tract of land described in instrument recorded at microfilm drawer 9M card 926 of the Clark County records and shown on survey dated February 05, 1999 recorded with the Department of Natural Resources as Document number 750-26794, thence along the south boundary of section nineteen North 87 degrees 03' 25" West 8.0 feet to a fence and the true point of beginning, thence along said fence North 3 degrees 00' 33" East 1139.6 feet, thence North 4 degrees 38' 44" East 956.9 feet to a corner fence post, thence continue North 4 degrees 38' 44" East on a projection of the fence to the low water mark of the Des Moines River.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 2. CONVEYANCE OF PROPERTY AT CUIVRE RIVER STATE PARK TO STEVE AND ELLEN PIACENTINI. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state at Cuivre River State Park to Steve and Ellen Piacentini, husband and wife. The property to be conveyed is more particularly described as follows:

Part of lands located in the County of Lincoln and the State of Missouri, lying in part of the southwest quarter of Section 16 and part of the northwest quarter of Section 21, Township 49 North, Range 1 East of the Fifth Principal Meridian, being all that part north and east of the following described courses:

Commencing at a standard aluminum monument, described in MoDNR document # 600-65596 and located per survey filed as document # 750-26854 in the records of the Missouri Department of Natural Resources, marking the southeast corner of the northeast quarter of the northwest quarter of said Section 21; thence along the east line of said northeast quarter of the northwest quarter of Section 21, north 00 degrees 51 minutes 55 seconds east, a distance of 890.80 feet to a set 5/8 inch rebar, the TRUE POINT OF BEGINNING of the herein described courses; thence departing said east line north 89 degrees 08 minutes 05 seconds west, a distance of 45.00 feet to a set 5/8 inch rebar, from which a found 3/8 inch rebar bears south 89 degrees 08 minutes 05 seconds east, a distance of 18.1 feet; thence north 00 degrees 51 minutes 55 seconds east, a distance of 489.20 feet to a set 5/8 inch rebar, from which a standard aluminum monument, described in MoDNR document # 600-65595 and located per said survey filed as document # 750-26854, bears south 89 degrees 05 minutes 55 seconds east, a distance of 45.00 feet and a found 1/2 inch rebar with orange plastic cap marked "RLS 1851" bears south 79 degrees 19 minutes 30 seconds east, a distance of 16.1 feet; thence north 89 degrees 05 minutes 55 seconds west, a distance of 155.40 feet to a set 5/8 inch rebar; thence north 00 degrees 54 minutes 05 seconds east, a distance of 53.80 feet to a set 5/8 inch rebar; thence north 89 degrees 05 minutes 55 seconds west, a distance of 409.29 feet to the east line of a tract of land conveyed to Loyd E. Groshong by instrument recorded in Deed Book 220 at page 575 of the Lincoln County land records, marked by a set 5/8 inch rebar, from which a found 1 1/4 inch solid round rod bears north 00 degrees 34 minutes 30 seconds east, a distance of 253.60 feet; thence along the east line of said Groshong tract, south 00 degrees 34 minutes 30 seconds west, a distance of 53.80 feet to the section line between said Sections 16 and 21, marked by a set 5/8 inch rebar, the point of termination of the herein described courses, from

which a found 7/8 inch O.D. iron pipe bears south 00 degrees 34 minutes 30 seconds west, a distance of 7.55 feet and a 5/8 inch rebar with aluminum cap, described in MoDNR document # 600-65594 and located per said survey filed as document # 750-26854, bears north 89 degrees 05 minutes 55 seconds west, a distance of 710.45 feet.

2. In consideration for the conveyance in subsection 1 of this section, the Missouri department of natural resources is hereby authorized to receive via quitclaim deed property from Steve and Ellen Piacentini. The property to be conveyed to the department is more particularly described as follows:

Part of lands located in the County of Lincoln and the State of Missouri, lying in part of the southwest quarter of Section 16 and part of the northwest quarter of Section 21, Township 49 North, Range 1 East of the Fifth Principal Meridian, being all that part south and west of the following described courses:

Commencing at a standard aluminum monument, described in MoDNR document # 600-65596 and located per survey filed as document # 750-26854 in the records of the Missouri Department of Natural Resources, marking the southeast corner of the northeast quarter of the northwest quarter of said Section 21; thence along the east line of said northeast quarter of the northwest quarter of Section 21, north 00 degrees 51 minutes 55 seconds east, a distance of 890.80 feet to a set 5/8 inch rebar, the TRUE POINT OF BEGINNING of the herein described courses; thence departing said east line north 89 degrees 08 minutes 05 seconds west, a distance of 45.00 feet to a set 5/8 inch rebar, from which a found 3/8 inch rebar bears south 89 degrees 08 minutes 05 seconds east, a distance of 18.1 feet; thence north 00 degrees 51 minutes 55 seconds east, a distance of 489.20 feet to a set 5/8 inch rebar, from which a standard aluminum monument, described in MoDNR document # 600-65595 and located per said survey filed as document # 750-26854, bears south 89 degrees 05 minutes 55 seconds east, a distance of 45.00 feet and a found 1/2 inch rebar with orange plastic cap marked "RLS 1851" bears south 79 degrees 19 minutes 30 seconds east, a distance of 16.1 feet; thence north 89 degrees 05 minutes 55 seconds west, a distance of 155.40 feet to a set 5/8 inch rebar; thence north 00 degrees 54 minutes 05 seconds east, a distance of 53.80 feet to a set 5/8 inch rebar; thence north 89 degrees 05 minutes 55 seconds west, a distance of 409.29 feet to the east line of a tract of land conveyed to Loyd E. Groshong by instrument recorded in Deed Book 220 at page 575 of the Lincoln County land records, marked by a set 5/8 inch rebar, from which a found 1 1/4 inch solid round rod bears north 00 degrees 34 minutes 30 seconds east, a distance of 253.60 feet; thence along the east line of said Groshong tract, south 00 degrees 34 minutes 30 seconds west, a distance of 53.80 feet to the section line between said Sections 16 and 21, marked by a set 5/8 inch rebar, the point of termination of the herein described courses, from which a found 7/8 inch O.D. iron pipe bears south 00 degrees 34 minutes 30 seconds west, a distance of 7.55 feet and a 5/8 inch rebar with aluminum cap, described in MoDNR document # 600-65594 and located per said survey filed as document # 750-26854, bears north 89 degrees 05 minutes 55 seconds west, a distance of 710.45 feet.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 3. CONVEYANCE OF PROPERTY AT WASHINGTON STATE PARK TO RACHEL DECLUE AND PATRICIA WESTOFF. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state at Washington State Park to Rachel DeClue and Patricia Westoff. The property to be conveyed is more particularly described as follows:

Part of lands located in the County of Washington and the State of Missouri, lying in the west half of the northeast quarter of Section 29, Township 39 North, Range 3 East of the Fifth Principal Meridian, being all that part enclosed by the following described courses:

Commencing at a standard aluminum monument, described in MoDNR document # 600-66813 and located per survey filed as document # 750-26906 in the records of the Missouri Department of Natural Resources, marking the southeast corner of said west half of the northeast quarter of Section 29; thence north 88 degrees 06 minutes 30 seconds west, a distance of 807.05 feet to a found 1 inch round rod (as called for in Deed Book 125 at page 61 of the land records of Washington County), lying within the right-of-way of Missouri Route 21; thence north 39 degrees 15 minutes 30 seconds west, a distance of 711.15 feet to a found 3/4 inch smooth round rod (as called for in Deed Book 125 at page 202 of said land records); thence north 80 degrees 28 minutes 30 seconds east, a distance of 7.0 feet to the easterly right-of-way of said Route 21, marked by a set 5/8 inch rebar, being the TRUE POINT OF BEGINNING of the herein described courses; thence continuing north 80 degrees 28 minutes 30 seconds east, a distance of 413.00 feet to a set 5/8 inch rebar; thence south 14 degrees 20 minutes 00 seconds east, a distance of 295.15 feet to a set 5/8 inch rebar; thence south 87 degrees 00 minutes 00 seconds west, a distance of 290.00 feet to said easterly right-of-way, from which a found t-post bears south 87 degrees 00 minutes 00 seconds west, a distance of 7.7 feet; thence northwesterly along said easterly right-of-way to the true point of beginning.

2. In consideration for the conveyance in subsection 1 of this section, the Missouri department of natural resources is hereby authorized to receive via quitclaim deed property from Rachel DeClue and Patricia Westoff. The property to be conveyed to the department is more particularly described as follows:

Part of lands located in the County of Washington and the State of Missouri, lying in the west half of the northeast quarter of Section 29, Township 39 North, Range 3 East of the Fifth Principal Meridian, being all that part north and east of the following described courses:

Commencing at a standard aluminum monument, described in MoDNR document # 600-66813 and located per survey filed as document # 750-26906 in the records of the Missouri Department of Natural Resources, marking the southeast corner of said west half of the northeast quarter of Section 29 and being the TRUE POINT OF BEGINNING of the herein described courses; thence south 87 degrees 37 minutes 35 seconds west, a distance of 123.69 feet to a found 1/2 inch rebar with yellow plastic cap marked "ELGIN PS 1682", per said document # 750-26906; thence north 47 degrees 49 minutes 00 seconds west, a distance of 508.45 feet to a set 5/8 inch rebar; thence north 84 degrees 46 minutes 30 seconds west, a distance of 270.10 feet to a set 5/8 inch rebar; thence north 14 degrees 20 minutes 00 seconds west, a distance of 295.15 feet to a set 5/8 inch rebar; thence south 80 degrees 28 minutes 30 seconds west, a distance of 413.00 feet to the easterly right-of-way of Missouri Route 21, marked by a set 5/8 inch rebar, said rebar being the point of termination, from which a found 3/4 inch smooth round rod (as called for in Deed Book 125 at page 202 of the land records of Washington County) bears south 80 degrees 28 minutes 30 seconds west, a distance of 7.0 feet and a found 1/2 inch rebar with yellow plastic cap marked "ELGIN PS 1682", per said document # 750-26906, bears north 39 degrees 20 minutes 00 seconds west, a distance of 110.90 feet.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 4. CONVEYANCE OF PROPERTY AT WASHINGTON STATE PARK TO OSCAR AND MARGARET RULO. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state at Washington State Park to Oscar and Margaret Rulo. The property to be conveyed is more particularly described as follows:

Part of lands located in the County of Washington and the State of Missouri, lying in the west half of the northeast quarter of Section 29, Township 39 North, Range 3 East of

the Fifth Principal Meridian, being all that part south and west of the following described courses:

Commencing at a standard aluminum monument, described in MoDNR document # 600-66813 and located per survey filed as document # 750-26906 in the records of the Missouri Department of Natural Resources, marking the southeast corner of said west half of the northeast quarter of Section 29; thence south 87 degrees 37 minutes 35 seconds west, a distance of 123.69 feet to a found $\frac{1}{2}$ inch rebar with yellow plastic cap marked "ELGIN PS 1682", per said document # 750-26906, being the TRUE POINT OF BEGINNING of the herein described courses; thence north 47 degrees 49 minutes 00 seconds west, a distance of 508.45 feet to a set $\frac{5}{8}$ inch rebar; thence north 84 degrees 46 minutes 30 seconds west, a distance of 270.10 feet to a set $\frac{5}{8}$ inch rebar; thence south 87 degrees 00 minutes 00 seconds west, a distance of 290.00 feet to the point of termination at the easterly right-of-way of Missouri Route 21, from which a found t-post bears south 87 degrees 00 minutes 00 seconds west, a distance of 7.7 feet.

2. In consideration for the conveyance in subsection 1 of this section, the Missouri department of natural resources is hereby authorized to receive via quitclaim deed property from Oscar and Margaret Rulo. The property to be conveyed to the department is more particularly described as follows:

Part of lands located in the County of Washington and the State of Missouri, lying in the west half of the northeast quarter of Section 29, Township 39 North, Range 3 East of the Fifth Principal Meridian, being all that part north and east of the following described courses:

Commencing at a standard aluminum monument, described in MoDNR document # 600-66813 and located per survey tiled as document # 750-26906 in the records of the Missouri Department of Natural Resources, marking the southeast corner of said west half of the northeast quarter of Section 29 and being the TRUE POINT OF BEGINNING of the herein described courses; thence south 87 degrees 37 minutes 35 seconds west, a distance of 123.69 feet to a found $\frac{1}{2}$ inch rebar with yellow plastic cap marked "ELGIN PS 1682", per said document # 750-26906; thence north 47 degrees 49 minutes 00 seconds west, a distance of 508.45 feet to a set $\frac{5}{8}$ inch rebar; thence north 84 degrees 46 minutes 30 seconds west, a distance of 270.10 feet to a set $\frac{5}{8}$ inch rebar; thence north 14 degrees 20 minutes 00 seconds west, a distance of 295.15 feet to a set $\frac{5}{8}$ inch rebar; thence south 80 degrees 28 minutes 30 seconds west, a distance of 413.00 feet to the easterly right-of-way of Missouri Route 21, marked by a set $\frac{5}{8}$ inch rebar, said rebar being the point of termination, from which a found $\frac{3}{4}$ inch smooth round rod (as called for in Deed Book 125 at page 202 of the land records of Washington County) bears south 80 degrees 28 minutes 30 seconds west, a distance of 7.0 feet and a found $\frac{1}{2}$ inch rebar with yellow plastic cap marked "ELGIN PS 1682", per said document # 750-26906, bears north 39 degrees 20 minutes 00 seconds west, a distance of 110.90 feet.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 5. CONVEYANCE OF CERTAIN LAND IN JEFFERSON COUNTY. — 1. The director of the department of natural resources is hereby authorized and empowered to grant and convey certain land in Jefferson County described as follows:

Parcel 11: Part of a larger tract of 42.26 acres located and being all that part of the South one-half of the northeast quarter of Section 20, Township 43 North, Range 5 East, in Jefferson County, Missouri and described as follows: Beginning at an iron pipe in the South line of the Northeast Quarter of said Section 20, being South 88 degrees 25 minutes East, distance 507.41 feet from the center of said Section 20; thence leaving the said South line of said Northeast Quarter of said Section 20, North 30 minutes East 159.11 feet to an iron pipe; thence North 88 degrees 25 minutes East 588.47 feet to a point in the center-line of a branch from which an iron pipe bears South 88 degrees 25 minutes West, distance

146.66 feet; thence along the said center-line of said branch South 27 degrees 02 minutes West 181.29 feet to a point from which an iron pipe bears South 88 degrees 25 minutes West, distance 65.60 feet; thence leaving the said center-line of said branch and along the South line of said Northeast Quarter of said Section 20 South 88 degrees 25 minutes West 507.41 feet to the point of beginning, containing two (2) acres.

Also an easement 20 feet wide lying East of and South of the following described line: Beginning at a point located in the North line of the above described tract said point being South 88 degrees 25 minutes West 75 feet more or less from the Northeast corner; thence North 28 degrees 48 minutes East 760 feet, more or less to a point; thence South 49 degrees 45 minutes East to the West right-of-way line of Romain Creek County Road.

2. Tammy L. Edwards shall have the right of first refusal to purchase the property described in subsection 1 of this section based on the fair market value of the property as determined by an appraiser contracted with by the department of natural resources. In the event that Tammy L. Edwards is unable or unwilling to purchase the property for the price determined by the department of natural resources, the department of natural resources shall then sell the property at a public auction under such terms and conditions as the department shall set.

3. The attorney general shall approve the form of the instrument of conveyance.

Approved July 10, 2002

HB 1635 [SCS HB 1635]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires deposits for water services for certain customers in certain cities to accrue interest after the deposit is held by a water corporation for two years.

AN ACT to repeal section 393.130, RSMo, relating to deposits for water service, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

393.130. Safe and adequate service — charges — certain home rule cities, interest accrual, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 393.130, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.130, to read as follows:

393.130. SAFE AND ADEQUATE SERVICE — CHARGES — CERTAIN HOME RULE CITIES, INTEREST ACCRUAL, WHEN. — 1. Every gas corporation, every electrical corporation, every water corporation, and every sewer corporation shall furnish and provide such service instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable. All charges made or demanded by any such gas corporation, electrical corporation, water corporation or sewer corporation for gas, electricity, water, sewer or any service rendered or to be rendered shall be just and reasonable and not more than allowed by law or by order or decision of the commission. Every unjust or unreasonable charge made or demanded for gas, electricity, water, sewer or any such service, or in connection therewith, or in excess of that allowed by law or by order or decision of the commission is prohibited.

2. No gas corporation, electrical corporation, water corporation or sewer corporation shall directly or indirectly by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for gas, electricity, water, sewer or for any service rendered or to be rendered or in connection therewith, except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect thereto under the same or substantially similar circumstances or conditions.

3. No gas corporation, electrical corporation, water corporation or sewer corporation shall make or grant any undue or unreasonable preference or advantage to any person, corporation or locality, or to any particular description of service in any respect whatsoever, or subject any particular person, corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

4. Nothing in this section shall be taken to prohibit a gas corporation, electrical corporation, water corporation or sewer corporation from establishing a sliding scale for a fixed period for the automatic adjustment of charges for gas, electricity, water, sewer or any service rendered or to be rendered and the dividends to be paid stockholders of such gas corporation, electrical corporation, water corporation or sewer corporation; provided, that the sliding scale shall first have been filed with and approved by the commission; but nothing in this subsection shall operate to prevent the commission after the expiration of such fixed period from fixing proper, just and reasonable rates and charges to be made for service as authorized in sections 393.110 to 393.285.

5. No water corporation shall be permitted to charge any municipality or fire protection district a rate for the placing and providing of fire hydrants for distribution of water for use in protecting life and property from the hazards of fire within such municipality or fire protection district. Nothing herein shall prevent such water corporation from including the cost of placement and maintenance of such fire hydrants in its cost basis in determining a fair and reasonable rate to be charged for water. Any such fee or rental charge being made for such fire hydrants whether by contract or otherwise at the time this act shall take effect may remain in effect for a period of one hundred twenty days after this section shall take effect.

6. In any home rule city with more than four hundred thousand inhabitants and located in more than one county, any deposits held by the city for any water or sewerage services provided to a customer at any premises shall accrue interest if the customer is current in payments for water and sewerage services and if the city has held the deposit for two or more years. Interest for each year, or part thereof, shall accrue at the rate set for six month United States treasury bills effective December thirty-first of the preceding year. For any deposit held by the city on or before the December thirty-first prior to August 28, 2002, if that deposit is still held by the city on the December thirty-first one year next following August 28, 2002, interest accruing pursuant to this section from the effective date shall be credited to the customer's individual account, or paid to the customer, at the city's discretion.

Approved June 27, 2002

HB 1636 [SCS HB 1636]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Permits certain cities to designate a county election authority verification board as its own verification board.

AN ACT to repeal section 115.507, RSMo, and to enact in lieu thereof one new section relating to election authority verification boards.

SECTION

A. Enacting clause.

115.507. Announcement of results by verification board, contents, when due — abstract of votes to be official returns.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 115.507, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 115.507, to read as follows:

115.507. ANNOUNCEMENT OF RESULTS BY VERIFICATION BOARD, CONTENTS, WHEN DUE — ABSTRACT OF VOTES TO BE OFFICIAL RETURNS. — 1. Not later than the second Tuesday after the election, the verification board shall issue a statement announcing the results of each election held within its jurisdiction and shall certify the returns to each political subdivision and special district submitting a candidate or question at the election. The statement shall include a categorization of the number of regular and absentee votes cast in the election, and how those votes were cast; provided however, that absentee votes shall not be reported separately where such reporting would disclose how any single voter cast his or her vote. When absentee votes are not reported separately the statement shall include the reason why such reporting did not occur. Nothing in this section shall be construed to require the election authority to tabulate absentee ballots by precinct on election night.

2. The verification board shall prepare the returns by drawing an abstract of the votes cast for each candidate and on each question submitted to a vote of people in its jurisdiction by the state and by each political subdivision and special district at the election. The abstract of votes drawn by the verification board shall be the official returns of the election.

3. **Any home rule city with more than four hundred thousand inhabitants and located in more than one county may by ordinance designate one of the election authorities situated partially or wholly within that home rule city to be the verification board that shall certify the returns of such city submitting a candidate or question at any election and shall notify each verification board within the city of that designation by providing each with a copy of such duly adopted ordinance. Not later than the second Tuesday after any election in any city making such a designation, each verification board within the city shall certify the returns of such city submitting a candidate or question at the election to the election authority so designated by the city to be its verification board, and such election authority shall announce the results of the election and certify the cumulative returns to the city in conformance with subsections 1 and 2 of this section not later than ten days thereafter.**

4. Not later than the second Tuesday after each election at which the name of a candidate for nomination or election to the office of president of the United States, United States senator, representative in Congress, governor, lieutenant governor, state senator, state representative, judge of the circuit court, secretary of state, attorney general, state treasurer, or state auditor, or at which an initiative, referendum, constitutional amendment or question of retaining a judge subject to the provisions of article V, section 29 of the state constitution, appears on the ballot in a jurisdiction, the election authority of the jurisdiction shall mail or deliver to the secretary of state the abstract of the votes given in its jurisdiction, by polling place or precinct, for each such office and on each such question. If mailed, the abstract shall be enclosed in a strong, sealed envelope or envelopes. On the outside of each envelope shall be printed: "Returns of election held in the county of (City of St. Louis, Kansas City) on the day of,", etc.

Approved June 27, 2002

HB 1659 [HB 1659]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Provides that court clerks can only collect certain surcharges authorized by ordinance, order, or resolution effective on or after January 1, 1997, if authorized by statute.

AN ACT to repeal section 488.005, RSMo, and to enact in lieu thereof one new section relating to surcharges.

SECTION

A. Enacting clause.

488.005. Clerk not to collect surcharge, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 488.005, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 488.005, to read as follows:

488.005. CLERK NOT TO COLLECT SURCHARGE, WHEN. — Notwithstanding any other provision of law to the contrary, whether enacted before, on or after August 28, 1996, no clerk of any court shall collect any surcharge authorized by or pursuant to any ordinance, order or resolution which provides that the effective date to commence imposition of such surcharge is on or after January 1, 1997, **unless such ordinance, order or resolution is authorized by statute.**

Approved July 11, 2002

HB 1668 [HB 1668]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates Emergency Personnel Appreciation Day.

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to Emergency Personnel Appreciation Day.

SECTION

A. Enacting clause.

9.132. Emergency Personnel Appreciation Date, date of — how observed.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.132, to read as follows:

9.132. EMERGENCY PERSONNEL APPRECIATION DATE, DATE OF — HOW OBSERVED. — September eleventh of every year shall be known and designated as "Emergency Personnel Appreciation Day". It shall be set apart as a day of acknowledging, with special gratitude and profound respect, all emergency personnel, including police, firefighters,

ambulance personnel, and emergency dispatchers. All citizens of this state are requested to devote some portion of emergency personnel appreciation day to recognition and solemn contemplation of the sacrifices undertaken by emergency personnel in performance of their duties.

Approved July 1, 2002

HB 1674 [HB 1674]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires proposed rules of public employee retirement plans to be submitted to the Joint Committee on Public Employee Retirement.

AN ACT to repeal section 105.661, RSMo, and to enact in lieu thereof one new section relating to public retirement plans.

SECTION

A. Enacting clause.

105.661. All retirement plans to prepare financial report, content audit by state auditor and joint committee on public employee retirement — rulemaking authority.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 105.661, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.661, to read as follows:

105.661. ALL RETIREMENT PLANS TO PREPARE FINANCIAL REPORT, CONTENT AUDIT BY STATE AUDITOR AND JOINT COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT — RULEMAKING AUTHORITY. — 1. Each plan shall annually prepare and have available as public information a comprehensive annual financial report showing the financial condition of the plan as of the end of the plan's fiscal year. The report shall contain, but not be limited to, detailed financial statements prepared in accordance with generally accepted accounting principles for public employee retirement systems including an independent auditors report thereon, prepared by a certified public accountant or a firm of certified public accountants, a detailed summary of the plan's most recent actuarial valuation including a certification letter from the actuary and a summary of actuarial assumptions and methods used in such valuation, a detailed listing of the investments, showing both cost and market value, held by the plan as of the date of the report together with a detailed statement of the annual rates of investment return from all assets and from each type of investment, a detailed list of investments acquired and disposed of during the fiscal year, a listing of the plan's board of trustees or responsible administrative body and administrative staff, a detailed list of administrative expenses of the plan including all fees paid for professional services, a detailed list of brokerage commissions paid, a summary plan description, and such other data as the plan shall deem necessary or desirable for a proper understanding of the condition of the plan. In the event a plan is unable to comply with any of the disclosure requirements outlined above, a detailed statement must be included in the report as to the reason for such noncompliance.

2. Any rule or portion of rule promulgated by any plan pursuant to the authority of chapter 536, RSMo, or of any other provision of law, shall be submitted to the joint committee on public employee retirement prior to or concurrent with the filing of a notice

of proposed rulemaking with the secretary of state's office pursuant to section 536.021, RSMo. The requirement of this subsection is intended solely for the purpose of notifying the joint committee on public employee retirement with respect to a plan's proposed rulemaking so that the joint committee on public employee retirement has ample opportunity to submit comments with respect to such proposed rulemaking in accordance with the normal process. Any plan not required to file a notice of proposed rulemaking with the secretary of state's office shall submit any proposed rule or portion of a rule to the joint committee on public employee retirement within ten days of its promulgation.

3. A copy of the comprehensive annual financial report as outlined in subsection 1 of this section shall be forwarded within six months of the end of the plan's fiscal year to the state auditor and the joint committee on public employee retirement.

Approved July 3, 2002

HB 1711 [CCS HCS HB 1711]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises definitions section of state aid to include a definition of "district equalized assessed valuation".

AN ACT a)To repeal sections 108.140, 160.011, 160.051, 160.518, 160.530, 161.092, 163.011, 163.036, 166.260, and 168.400, RSMo, and to enact in lieu thereof fourteen new sections relating to state school aid.

SECTION

- A. Enacting clause.
- 82.293. No surcharge or fee to compensate school districts without statutory authority (Lee's Summit).
- 108.140. Political subdivisions may refund, extend, unify indebtedness.
- 160.011. Definitions, certain chapters.
- 160.051. Public school system established — child attains age five, when — board shall provide free instruction for children between ages of five and six years — literacy programs — summer school for prekindergartners.
- 160.518. Statewide assessment system, standards, restriction — exemplary levels, outstanding school waivers — summary waiver of pupil testing requirements — waiver void, when — scores not counted, when — alternative assessments for special education students.
- 160.530. Eligibility for state aid, allocation of funds to professional development committee — statewide areas of critical need, funds — success leads to success grant program created, purpose.
- 160.531. Family literacy programs, funding — rulemaking authority.
- 160.720. Performance schools designation — priority schools identified, criteria, accountability compliance statements submitted — deficiency strategies, content — resource allocation plans, elements of — rules — enforceability, exceptions.
- 161.092. Powers and duties of state board.
- 163.011. Definitions — method of calculating state aid.
- 163.036. Estimates of average daily attendance, authorized, how computed — error in computation between actual and estimated attendance, how corrected — use of assessed valuation for state aid — delinquency in payment of property tax, effect on assessment.
- 166.260. Children at-risk in education program established — purposes.
- 168.400. Programs established for public school personnel — contents.
- 170.014. Reading instruction act — reading programs established, essential components — explicit systemic phonics defined.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 108.140, 160.011, 160.051, 160.518, 160.530, 161.092, 163.011, 163.036, 166.260, and 168.400, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 82.293, 108.140, 160.011, 160.051, 160.518, 160.530, 160.531, 160.720, 161.092, 163.011, 163.036, 166.260, 168.400, and 170.014, to read as follows:

82.293. NO SURCHARGE OR FEE TO COMPENSATE SCHOOL DISTRICTS WITHOUT STATUTORY AUTHORITY (LEE'S SUMMIT). — **1. Absent explicit statutory authority, no constitutional charter city with more than seventy thousand five hundred but less than seventy-one thousand inhabitants located at least in part within a county of the first classification with more than eighty-two thousand but less than eighty-two thousand one hundred inhabitants shall enact any ordinance, regulation, or resolution that would impose a surcharge or other fee to compensate any political subdivision organized pursuant to chapter 162, RSMo.**

2. If any provision of this section or the application thereof to anyone or to any circumstances is held invalid, the remainder of section A of this act and the application of such provisions to others or other circumstances shall not be affected thereby.

108.140. POLITICAL SUBDIVISIONS MAY REFUND, EXTEND, UNIFY INDEBTEDNESS. — **1.** The various counties in this state for themselves, as well as for and on behalf of any township, or other political subdivision for which the counties may have issued any general obligation bonds, and the several cities, school districts or other political corporations or subdivisions of the state, are hereby authorized to refund, extend, and unify the whole or part of their valid general obligation bonded indebtedness, or judgment indebtedness, and for such purpose may issue, negotiate, sell and deliver refunding general obligation bonds and with the proceeds therefrom pay off, redeem and cancel the bonds to be refunded in advance of their maturity or redemption or as the same mature or are called for redemption, or pay and cancel such judgment indebtedness, or such refunding general obligation bonds may be issued and delivered in exchange for and upon surrender and cancellation of the bonds refunded thereby, or such judgment indebtedness. **School districts may pay costs and expenses related to issuing such refunding general obligation bonds from proceeds from the sale of such bonds.** In no case shall the refunding general obligation bonds exceed the amount of the principal of the outstanding bond or judgment indebtedness to be refunded and the interest accrued thereon to the date of such refunding bonds. No refunding bond issued as provided in this subsection shall be payable in more than twenty years from the date thereof and such refunding bonds shall bear interest not to exceed the same rate as the bonds refunded, or judgment indebtedness; provided, that nothing in this section shall be so construed as to prohibit any county, city, school district, or other political corporation or subdivision of the state from refunding its general obligation bonded indebtedness without the submission of the question to a popular vote.

2. The various counties in this state for themselves, as well as for and on behalf of any township, or other political subdivision for which the counties may have issued any revenue bonds, notes or other obligations, and the several cities, school districts or other political corporations or subdivisions of the state, are hereby authorized to refund, extend, and unify the whole or part of their valid outstanding revenue bonds, notes or other obligations, and for such purpose may issue, negotiate, sell and deliver refunding revenue bonds, notes or other obligations and with the proceeds therefrom pay off, redeem and cancel the obligations to be refunded in advance of their maturity or redemption or as the same mature or are called for redemption, or such refunding revenue bonds, notes or other obligations may be issued and delivered in exchange for and upon surrender and cancellation of the obligations refunded thereby. In no case shall the refunding revenue bonds, notes or other obligations exceed the amount determined by the governing body of the issuing political corporation or subdivision to be necessary to pay or provide for the payment of the principal of the outstanding obligations to be refunded, together

with the interest accrued thereon to the date of such refunding obligations and the interest to accrue thereon to the date of maturity or redemption of such obligations to be refunded and any premium which may be due under the terms of such obligations to be refunded and any amounts necessary for the payment of costs and expenses related to issuing such refunding obligations and to fund a debt service reserve fund for the obligations. All such refunding revenue bonds, notes or other obligations shall bear interest at such rates as the governing body of the issuing political subdivision shall provide, which rates of interest may exceed the rates of interest on the obligations being refunded but shall not exceed the maximum legal rate established by section 108.170. The refunding revenue bonds, notes or other obligations may be payable from the same sources as were pledged to the payment of the obligations refunded and, in the discretion of the governing body of the issuing political subdivision, may be payable from any other source which may be pledged to the payment of revenue bonds, notes or other obligations under any provision of law relating to the issuance of the obligations refunded. Nothing in this section shall be so construed as to prohibit any county, city, school district, or other political corporation or subdivision of the state from refunding its revenue bonded indebtedness without the submission of the question to a popular vote.

160.011. DEFINITIONS, CERTAIN CHAPTERS. — As used in chapters 160, 161, 162, 163, 164, 165, 167, 168, 170, 171, 177 and 178, RSMo, the following terms mean:

(1) "District" or "school district", when used alone, may include seven-director, urban, and metropolitan school districts;

(2) "Elementary school", a public school giving instruction in a grade or grades not higher than the eighth grade;

(3) **"Family literacy programs", services of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in families that include:**

(a) **Interactive literacy activities between parents and their children;**

(b) **Training of parents regarding how to be the primary teacher of their children and full partners in the education of their children;**

(c) **Parent literacy training that leads to high school completion and economic self sufficiency; and**

(d) **An age-appropriate education to prepare children of all ages for success in school;**

[(3)] (4) "Graduation rate", the quotient of the number of graduates in the current year as of June thirtieth divided by the sum of the number of graduates in the current year as of June thirtieth plus the number of twelfth graders who dropped out in the current year plus the number of eleventh graders who dropped out in the preceding year plus the number of tenth graders who dropped out in the second preceding year plus the number of ninth graders who dropped out in the third preceding year;

[(4)] (5) "High school", a public school giving instruction in a grade or grades not lower than the ninth nor higher than the twelfth grade;

[(5)] (6) "Metropolitan school district", any school district the boundaries of which are coterminous with the limits of any city which is not within a county;

[(6)] (7) "Public school" includes all elementary and high schools operated at public expense;

[(7)] (8) "School board", the board of education having general control of the property and affairs of any school district;

[(8)] (9) "School term", a minimum of one hundred seventy-four school days, as that term is defined in section 160.041, and one thousand forty-four hours of actual pupil attendance as scheduled by the board pursuant to section 171.031, RSMo, during a twelve-month period in which the academic instruction of pupils is actually and regularly carried on for a group of students in the public schools of any school district. A "school term" may be within a school year or may consist of parts of two consecutive school years, but does not include summer school. A district may choose to operate two or more terms for different groups of children;

[(9)] (10) "Secretary", the secretary of the board of a school district;

[(10)] (11) "Seven-director district", any school district which has seven directors and includes urban districts regardless of the number of directors an urban district may have unless otherwise provided by law;

[(11)] (12) "Taxpayer", any individual who has paid taxes to the state or any subdivision thereof within the immediately preceding twelve-month period or the spouse of such individual;

[(12)] (13) "Town", any town or village, whether or not incorporated, the plat of which has been filed in the office of the recorder of deeds of the county in which it is situated;

[(13)] (14) "Urban school district", any district which includes more than half of the population or land area of any city which has not less than seventy thousand inhabitants, other than a city which is not within a county.

160.051. PUBLIC SCHOOL SYSTEM ESTABLISHED — CHILD ATTAINS AGE FIVE, WHEN — BOARD SHALL PROVIDE FREE INSTRUCTION FOR CHILDREN BETWEEN AGES OF FIVE AND SIX YEARS — LITERACY PROGRAMS — SUMMER SCHOOL FOR PREKINDERGARTNERS. — 1. A system of free public schools is established throughout the state for the gratuitous instruction of persons between the ages of five and twenty-one years. Any child whose fifth birthday occurs before the first day of August shall be deemed to have attained the age of five years at the commencement of the school year beginning in that calendar year or at the commencement of the summer school session immediately prior to the school term beginning in the school year beginning in that calendar year, whichever is earlier, for the purpose of apportioning state school funds and for all other purposes.

2. Public schools may establish family literacy programs for children of all ages and their families.

[2.] **3.** The department of elementary and secondary education shall not use school for kindergarten pupils in the summer preceding such pupils' regular fall starting date as an element of the standards of the Missouri school improvement program.

160.518. STATEWIDE ASSESSMENT SYSTEM, STANDARDS, RESTRICTION — EXEMPLARY LEVELS, OUTSTANDING SCHOOL WAIVERS — SUMMARY WAIVER OF PUPIL TESTING REQUIREMENTS — WAIVER VOID, WHEN — SCORES NOT COUNTED, WHEN — ALTERNATIVE ASSESSMENTS FOR SPECIAL EDUCATION STUDENTS. — 1. Consistent with the provisions contained in section 160.526, the state board of education shall develop a statewide assessment system that provides maximum flexibility for local school districts to determine the degree to which students in the public schools of the state are proficient in the knowledge, skills and competencies adopted by such board pursuant to subsection 1 of section 160.514. The statewide assessment system shall assess problem solving, analytical ability, evaluation, creativity and application ability in the different content areas and shall be performance-based to identify what students know, as well as what they are able to do, and shall enable teachers to evaluate actual academic performance. The assessment system shall neither promote nor prohibit rote memorization and shall not include existing versions of tests approved for use pursuant to the provisions of section 160.257, nor enhanced versions of such tests. The statewide assessment shall measure, where appropriate by grade level, a student's knowledge of academic subjects including, but not limited to, reading skills, writing skills, mathematics skills, world and American history, forms of government, geography and science.

2. The assessment system shall only permit the academic performance of students in each school in the state to be tracked against prior academic performance in the same school.

3. The state board of education shall suggest criteria for a school to demonstrate that its students learn the knowledge, skills and competencies at exemplary levels worthy of imitation by students in other schools in the state and nation. "Exemplary levels" shall be measured by the assessment system developed pursuant to subsection 1 of this section, or until said assessment is available, by indicators approved for such use by the state board of education. The provisions

of other law to the contrary notwithstanding, the commissioner of education may, upon request of the school district, present a plan for the waiver of rules and regulations to any such school, to be known as "Outstanding Schools Waivers", consistent with the provisions of subsection 4 of this section.

4. For any school that meets the criteria established by the state board of education for three successive school years pursuant to the provisions of subsection 3 of this section, by August first following the third such school year, the commissioner of education shall present a plan to the superintendent of the school district in which such school is located for the waiver of rules and regulations to promote flexibility in the operations of the school and to enhance and encourage efficiency in the delivery of instructional services. The provisions of other law to the contrary notwithstanding, the plan presented to the superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257, in the school. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a means for the waiver of requirements otherwise imposed on the school related to the authority of the state board of education to classify school districts pursuant to subdivision (9) of section 161.092, RSMo, and such other rules and regulations as determined by the commissioner of education, excepting such waivers shall be confined to the school and not other schools in the district unless such other schools meet the criteria established by the state board of education consistent with subsection 3 of this section and the waivers shall not include the requirements contained in this section and section 160.514. Any waiver provided to any school as outlined in this subsection shall be void on June thirtieth of any school year in which the school fails to meet the criteria established by the state board of education consistent with subsection 3 of this section.

5. The score on any assessment test developed pursuant to this section or this chapter of any student for whom English is a second language shall not be counted until such time as such student has been educated for three full school years in a school in this state, or in any other state, in which English is the primary language.

6. **The state board of education shall identify or, if necessary, establish one or more developmentally appropriate alternate assessments for students who receive special educational services, as that term is defined pursuant to section 162.675, RSMo. In the development of such alternate assessments, the state board shall establish an advisory panel consisting of a majority of active special education teachers and other education professionals as appropriate to research available assessment options. The advisory panel shall attempt to identify preexisting developmentally appropriate alternate assessments but shall, if necessary, develop alternate assessments and recommend one or more alternate assessments for adoption by the state board. The state board shall consider the recommendations of the advisory council in establishing such alternate assessment or assessments. Any student who receives special educational services, as that term is defined pursuant to section 162.675, RSMo, shall be assessed by an alternate assessment established pursuant to this subsection upon a determination by the student's individualized education program team that such alternate assessment is more appropriate to assess the student's knowledge, skills and competencies than the assessment developed pursuant to subsection 1 of this section. The alternate assessment shall evaluate the student's independent living skills, which include how effectively the student addresses common life demands and how well the student meets standards for personal independence expected for someone in the student's age group, sociocultural background, and community setting.**

160.530. ELIGIBILITY FOR STATE AID, ALLOCATION OF FUNDS TO PROFESSIONAL DEVELOPMENT COMMITTEE — STATEWIDE AREAS OF CRITICAL NEED, FUNDS — SUCCESS LEADS TO SUCCESS GRANT PROGRAM CREATED, PURPOSE. — 1. Beginning with fiscal year 1994 and for all fiscal years thereafter, in order to be eligible for state aid distributed pursuant to section 163.031, RSMo, a school district shall allocate one percent of moneys received pursuant

to section 163.031, RSMo, exclusive of categorical add-ons, to the professional development committee of the district as established in subdivision (1) of subsection 4 of section 168.400, RSMo. Of the moneys allocated to the professional development committee in any fiscal year as specified by this subsection, seventy-five percent of such funds shall be spent in the same fiscal year for purposes determined by the professional development committee after consultation with the administrators of the school district and approved by the local board of education as meeting the objectives of a school improvement plan of the district that has been developed by the local board. Moneys expended for staff training pursuant to any provisions of this act shall not be considered in determining the requirements for school districts imposed by this subsection.

2. Beginning with fiscal year 1994 and for all fiscal years thereafter, ninety percent of one percent of moneys appropriated to the department of elementary and secondary education otherwise distributed to the public schools of the state pursuant to the provisions of section 163.031, RSMo, exclusive of categorical add-ons, shall be distributed by the commissioner of education to address statewide areas of critical need for learning and development as determined by rule and regulation of the state board of education with the advice of the commission established by section 160.510 and the advisory council provided by subsection 1 of section 168.015, RSMo. The moneys described in this subsection may be distributed by the commissioner of education to colleges, universities, private associations, professional education associations, statewide associations organized for the benefit of members of boards of education, public elementary and secondary schools, and other associations and organizations that provide professional development opportunities for teachers, administrators, **family literacy personnel** and boards of education for the purpose of addressing statewide areas of critical need, provided that subdivisions (1), [and] (2) and (3) of this subsection shall constitute priority uses for such moneys. "Statewide areas of critical need for learning and development" shall include:

(1) Funding the operation of state management teams in districts with academically deficient schools and providing resources specified by the management team as needed in such districts;

(2) Funding for grants to districts, upon application to the department of elementary and secondary education, for resources identified as necessary by the district, for those districts which are failing to achieve assessment standards;

(3) Funding for family literacy programs;

[(3)] (4) Ensuring that all children, especially children at risk, children with special needs, and gifted students are successful in school;

[(4)] (5) Increasing parental involvement in the education of their children;

[(5)] (6) Providing information which will assist public school administrators and teachers in understanding the process of site-based decision making;

[(6)] (7) Implementing recommended curriculum frameworks as outlined in section 160.514;

[(7)] (8) Training in new assessment techniques for students;

[(8)] (9) Cooperating with law enforcement authorities to expand successful antidrug programs for students;

[(9)] (10) Strengthening existing curricula of local school districts to stress drug and alcohol prevention;

[(10)] (11) Implementing and promoting programs to combat gang activity in urban areas of the state;

[(11)] (12) Establishing family schools, whereby such schools adopt proven models of one-stop state services for children and families;

[(12)] (13) Expanding adult literacy services; and

[(13)] (14) Training of members of boards of education in the areas deemed important for the training of effective board members as determined by the state board of education.

3. Beginning with fiscal year 1994 and for all fiscal years thereafter, ten percent of one percent of moneys appropriated to the department of elementary and secondary education

otherwise distributed to the public schools of the state pursuant to the provisions of section 163.031, RSMo, exclusive of categorical add-ons, shall be distributed in grant awards by the state board of education, by rule and regulation, for the "Success Leads to Success" grant program, which is hereby created. The purpose of the success leads to success grant program shall be to recognize, disseminate and exchange information about the best professional teaching practices and programs in the state that address student needs, and to encourage the staffs of schools with these practices and programs to develop school-to-school networks to share these practices and programs.

160.531. FAMILY LITERACY PROGRAMS, FUNDING — RULEMAKING AUTHORITY. — 1. Beginning with fiscal year 2005 and for all fiscal years thereafter, an amount, as specified in subsection 2 of this section, of the appropriation to the department of elementary and secondary education otherwise distributed to the public schools of the state pursuant to the provisions of section 163.031, RSMo, shall be distributed by the department of elementary and secondary education to establish and fund family literacy programs in school attendance centers declared academically deficient by the state board of education as authorized by section 160.538 or school districts declared unaccredited or provisionally accredited by the state board of education pursuant to section 161.092, RSMo.

2. The amount to be distributed by the department of elementary and secondary education to establish and fund family literacy programs pursuant to subsection 1 of this section shall be one and one-half percent of the total line 14 distribution.

3. The department of elementary and secondary education shall promulgate rules for the distribution of family literacy funds.

4. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

160.720. PERFORMANCE SCHOOLS DESIGNATION — PRIORITY SCHOOLS IDENTIFIED, CRITERIA, ACCOUNTABILITY COMPLIANCE STATEMENTS SUBMITTED — DEFICIENCY STRATEGIES, CONTENT — RESOURCE ALLOCATION PLANS, ELEMENTS OF — RULES — ENFORCEABILITY, EXCEPTIONS. — 1. The department of elementary and secondary education shall identify for recognition by the governor schools demonstrating high student achievement to be designated as performance schools. In addition, the department of elementary and secondary education shall identify those waivers of administrative rule authorized under state law appropriate for the recognized school district or school. The department of elementary and secondary education shall endeavor to identify waivers of administrative rule that result in a meaningful reduction in administrative burden on the districts recognized in this section.

2. The department of elementary and secondary education shall identify priority school districts and priority schools based upon the following criteria:

(1) School attendance centers declared academically deficient by the state board of education as authorized by section 160.538;

(2) School districts declared unaccredited or provisionally accredited by the state board of education pursuant to section 161.092, RSMo; or

(3) School districts or school attendance centers that do not meet any of the accreditation standards on student performance established by the state board of education based upon the statewide assessment system authorized pursuant to section 160.518.

3. The board of education of any priority school district or priority school shall submit, as a part of a comprehensive school improvement plan, an accountability compliance statement that shall:

(1) Identify and analyze areas of deficiency in student performance by school, grade and academic content area;

(2) Provide a comprehensive strategy for addressing these areas of deficiency;
(3) Assure disclosure of these areas of deficiency in the school accountability report card required pursuant to section 160.522;

(4) Permit a metropolitan district that is implementing a program of academic improvement in a school or schools identified pursuant to a settlement agreement for a desegregation lawsuit to submit the elements of the accountability compliance statement required in subdivisions (1) to (3) of this subsection for review for possible waiver solely in regard to the schools identified for academic improvement pursuant to the settlement agreement; provided, however, that the department of elementary and secondary education shall meet with any district covered by the provisions of this subdivision prior to the district submitting any element of an accountability compliance statement, so that the department may identify elements of the settlement agreement academic improvement plan that are substantially similar to the requirements contained in this section, and the department shall advise such district if, based on its review, any further plan or reporting of such plans or elements is required; and

(5) Require school boards of each district to annually review the school discipline provisions contained in section 160.261, and sections 167.023, 167.026, 167.117, 167.161 to 167.171 and 167.335, RSMo, and ensure that the district's discipline policies are consistent with the above listed sections.

4. The comprehensive strategy for addressing areas of deficiency required pursuant to this section shall address the following areas:

(1) Align curriculum to address areas of deficiency in student achievement;

(2) Develop, for any student who is not receiving special education services under an individualized education plan pursuant to sections 162.670 to 162.699, RSMo, who is performing at a level not determined or at the lowest level of proficiency in any subject area under the statewide assessment established pursuant to section 160.518, an individual performance plan in that subject area which shall:

(a) Be developed by the teacher or teachers in consultation with the child's parent, guardian, or other adult responsible for the student's education;

(b) Outline responsibilities for the student, parent, guardian, or other adult responsible for the student's education, teachers, and administrators in implementing the plan. Such plans shall not require the level of documentation and procedural complexities of an individualized education plan pursuant to sections 162.670 to 162.699, RSMo, but shall contain sufficient detail for all parties to understand their responsibilities in the implementation of the student's performance plan;

(c) State that the student's parent, guardian, or other adult responsible for the student's education shall act in good faith to implement the student performance plan and make reasonable efforts to meet with the teacher when requested or required by the plan; and

(d) Require those students performing at a level not determined or at the lowest level of proficiency in any subject area under the statewide assessment established pursuant to section 160.518 to be provided with additional instruction time and for students in grade nine to eleven to retake the assessment;

(3) Focus state and local professional development funds on the areas of greatest academic need, including a statement relating to accessing the resources and services of the regional professional development center and support from state professional development funds;

(4) Create programs to improve teacher and administrator effectiveness;

(5) Establish school accountability councils consistent with the procedures stated in subsection 5 of section 160.538 or align any existing parent advisory council with the requirements of subsection 5 of section 160.538;

(6) Develop a resource reallocation plan for the district; and

(7) Consider the need to implement strategies pursuant to this subsection for feeder schools of any priority school.

5. The school district shall include in any program for improvement of teacher and administrator effectiveness in an accountability compliance statement policies that will:

(1) Require school administrators and teachers, including teachers who are provisionally or temporarily certified, to participate in one of the following programs of professional development:

(a) A mentoring program meeting standards established by the state board of education or supervised by an individual previously designated by the department of elementary and secondary education as a regional resource teacher;

(b) Successful completion of a training program for certification as a scorer under the statewide assessment program authorized pursuant to section 160.518; or

(c) Enrollment and making adequate progress towards national board certification;

(2) Provide one additional year of intensive professional development assistance to teachers and administrators who do not complete or make adequate progress in the professional development activities described in subdivision (1) of this subsection;

(3) Exempt from the professional development requirements accountability compliance statement as provided in subdivision (1) of this subsection any individual who:

(a) Holds qualifying scores in the appropriate professional assessment as determined by the state board of education or who elects to take and receive a qualifying score of that assessment;

(b) Holds national board certification;

(c) Is certified as a scorer under the statewide assessment program;

(d) Is designated by the department of elementary and secondary education as a regional resource teacher;

(e) Serves as a mentor teacher for one school year in a program meeting standards adopted by the state board of education; or

(f) Successfully completes an appropriate administrator academy program offered pursuant to section 168.407, RSMo;

6. Any resource reallocation plan shall include at least one of the following elements:

(1) Reduce class size in areas of academic concern;

(2) Establish full-day kindergarten or preschool programs;

(3) Establish after-school, tutoring and other programs offering extended time for learning;

(4) Employ regional resource teachers designated by the department of elementary and secondary education or national board-certified teachers, along with appropriate salary enhancements for such teachers;

(5) Establish programs of teacher home visitation to encourage parental support of student learning; and

(6) Create "school within a school" programs to achieve smaller learning communities within priority schools.

7. The state board of education shall establish by administrative rule standards to evaluate accountability compliance statements, based upon the following criteria:

(1) An accountability compliance statement shall be submitted to the department of elementary and secondary education on or before August fifteenth following any school year in which a school district meets the criteria established under subsection 2 of this section;

(2) The department of elementary and secondary education shall review and identify areas of deficiency in the plan within thirty days of receipt; and

(3) Changes to the plan shall be forwarded to the department of elementary and secondary education within thirty days of notice to the district of the areas of deficiency.

8. The department of elementary and secondary education shall withhold funds to be paid to the school district, as authorized in section 163.031, RSMo, until such time as the district submits an accountability compliance statement meeting the standards authorized pursuant to this section within the timelines established herein.

9. The department of elementary and secondary education shall develop within three years of the adoption of this section a program of administrator mentoring focusing on the need of priority schools and priority school districts and meeting standards established by the state board of education.

10. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

11. In any school year in which the school funding formula has a proration factor on line 1(b) of less than 0.9, the provisions of subsections 2 to 9 of this section relating to priority schools and priority school districts shall not be enforced. For any school year in which funding of the school aid formula at the level stated in this subsection appears to be in doubt after all appropriations bills are truly agreed and finally passed, the house budget chair and the senate appropriations chair shall send a joint letter to the commissioner of education by August fifteenth, notifying the department of elementary and secondary education of the likelihood that funding would be below the limit stated in this subsection and requesting that the department not enforce subsections 2 to 9 of this section unless and until the department's calculations for the first "live" school aid payment of the school year show that the formula will have a proration factor on line 1(b) of no less than 0.9.

161.092. POWERS AND DUTIES OF STATE BOARD. — The state board of education shall:

(1) Adopt rules governing its own proceedings and formulate policies for the guidance of the commissioner of education and the department of elementary and secondary education;

(2) Carry out the educational policies of the state relating to public schools that are provided by law and supervise instruction in the public schools;

(3) Direct the investment of all moneys received by the state to be applied to the capital of any permanent fund established for the support of public education within the jurisdiction of the department of elementary and secondary education and see that the funds are applied to the branches of educational interest of the state that by grant, gift, devise or law they were originally intended, and if necessary institute suit for and collect the funds and return them to their legitimate channels;

(4) Cause to be assembled information which will reflect continuously the condition and management of the public schools of the state;

(5) Require of county clerks or treasurers, boards of education or other school officers, recorders and treasurers of cities, towns and villages, copies of all records required to be made by them and all other information in relation to the funds and condition of schools and the management thereof that is deemed necessary;

(6) Provide blanks suitable for use by officials in reporting the information required by the board;

(7) When conditions demand, cause the laws relating to schools to be published in a separate volume, with pertinent notes and comments, for the guidance of those charged with the execution of the laws;

(8) Grant, without fee, certificates of qualification and licenses to teach in any of the public schools of the state, establish requirements therefor, formulate regulations governing the issuance thereof, **including, upon an appropriate background check, provisional certification to a person who holds a valid teaching certificate from another state and has five years of teaching experience in the same school district in the curriculum area and approximate grade level in another state, providing for full certification upon the satisfactory completion of five years of teaching in Missouri public schools,** and cause the certificates to be revoked for the reasons and in the manner provided in section 168.071, RSMo;

(9) Classify the public schools of the state, subject to limitations provided by law, establish requirements for the schools of each class, and formulate rules governing the inspection and accreditation of schools preparatory to classification;

(10) Make an annual report on or before the first Wednesday after the first day of January to the general assembly or, when it is not in session, to the governor for publication and transmission to the general assembly. The report shall be for the last preceding school year, and shall include: (a) a statement of the number of public schools in the state, the number of pupils attending the schools, their sex, and the branches taught; (b) a statement of the number of teachers employed, their sex, their professional training, and their average salary; (c) a statement of the receipts and disbursements of public school funds of every description, their sources, and the purposes for which they were disbursed; (d) suggestions for the improvement of public schools; and (e) any other information relative to the educational interests of the state that the law requires or the board deems important;

(11) Make an annual report to the general assembly and the governor concerning coordination with other agencies and departments of government that support family literacy programs and other services which influence educational attainment of children of all ages;

[(11)] (12) Require from the chief officer of each division of the department of elementary and secondary education, on or before the thirty-first day of August of each year, reports containing information the board deems important and desires for publication;

[(12)] (13) Cause fifty copies of its annual report to be reserved for the use of each division of the state department of elementary and secondary education, and ten copies for preservation in the state library;

[(13)] (14) Have other powers and duties prescribed by law.

163.011. DEFINITIONS — METHOD OF CALCULATING STATE AID. — As used in this chapter unless the context requires otherwise:

(1) "Adjusted gross income":

(a) "District adjusted gross income per return" shall be the total Missouri individual adjusted gross income in a school district divided by the total number of Missouri income tax returns filed from the school district as reported by the state department of revenue for the second preceding year;

(b) "State adjusted gross income per return" shall be the total Missouri individual adjusted gross income divided by the total number of Missouri individual income tax returns, of those returns designating school districts, as reported by the state department of revenue for the second preceding year;

(c) "District income factor" shall be one plus thirty percent of the difference of the district income ratio minus one, except that the district income factor applied to the portion of the assessed valuation corresponding to any increase in assessed valuation above the assessed valuation of a district as of December 31, 1994, shall not exceed a value of one;

(d) "District income ratio" shall be the ratio of the district adjusted gross income per return divided by the state adjusted gross income per return;

(2) "Adjusted operating levy", the sum of tax rates for the current year for teachers' and incidental funds for a school district as reported to the proper officer of each county pursuant to section 164.011, RSMo;

(3) "Average daily attendance" means the quotient or the sum of the quotients obtained by dividing the total number of hours attended in a term by resident pupils between the ages of five and twenty-one by the actual number of hours school was in session in that term. To the average daily attendance of the following school term shall be added the full-time equivalent average daily attendance of summer school students. "Full-time equivalent average daily attendance of summer school students" shall be computed by dividing the total number of hours attended by all summer school pupils by the number of hours required in section 160.011, RSMo, in the

school term. For purposes of determining average daily attendance under this subdivision, the term "resident pupil" shall include all children between the ages of five and twenty-one who are residents of the school district and who are attending kindergarten through grade twelve in such district. If a child is attending school in a district other than the district of residence and the child's parent is teaching in the school district or is a regular employee of the school district which the child is attending, then such child shall be considered a resident pupil of the school district which the child is attending for such period of time when the district of residence is not otherwise liable for tuition. Average daily attendance for students below the age of five years for which a school district may receive state aid based on such attendance shall be computed as regular school term attendance unless otherwise provided by law;

(4) "Current operating costs", all expenditures for instruction and support services excluding capital outlay and debt service expenditures less the revenue from federal categorical sources, food service, student activities and payments from other districts;

(5) **"District equalized assessed valuation" shall be the average of the "equalized assessed valuation of the property of a school district" for the first and second preceding years;**

(6) "District's target rate", the district's average percentage of pupils from fiscal years 2000 to 2005 scoring at or above the proficiency level on the statewide assessment system on either mathematics or reading/communication arts plus one percentage point for each year after fiscal year 2005 except that the district's target rate shall not exceed the statewide average percentage from fiscal year 2000 to fiscal year 2005 scoring at or above the proficiency level on the statewide assessment system on either mathematics or reading/communication arts;

[(6)] (7) "District's tax rate ceiling", the highest tax rate ceiling in effect subsequent to the 1980 tax year or any subsequent year. Such tax rate ceiling shall not contain any tax levy for debt service;

[(7)] (8) "Eligible pupils" shall be the sum of the average daily attendance of the school term plus the product of two times the average daily attendance for summer school;

[(8)] (9) "Equalized assessed valuation of the property of a school district" **for a given year** shall be determined by multiplying the assessed valuation of the real property subclasses specified in section 137.115, RSMo, times the percent of true value as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent and dividing by either the percent of true value as determined by the state tax commission on or before March fifteenth preceding the fiscal year in which the valuation will be effective as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent or the average percent of true value for the highest three of the last four years as determined and certified by the state tax commission, whichever is greater. To the equalized locally assessed valuation of each district shall be added the assessed valuation of tangible personal property. The assessed valuation of property which has previously been excluded from the tax rolls, which is being contested as not being taxable and which increases the total assessed valuation of the school district by fifty percent or more, shall not be included in the calculation of equalized assessed valuation under this subdivision;

[(9)] (10) "Fiscal instructional ratio of efficiency", the quotient of the sum of the district's current operating costs for all kindergarten through grade twelve direct instructional and direct pupil support service functions plus the costs of improvement of instruction and the cost of purchased services and supplies for operation of the facilities housing those programs, excluding student activities, divided by the sum of the district's current operating cost for kindergarten through grade twelve, plus all tuition revenue received from other districts minus all noncapital transportation costs;

[(10)] (11) "Free and reduced lunch eligible pupil count", the number of pupils eligible for free and reduced lunch on the last Wednesday in January for the preceding school year who were enrolled as students of the district, as approved by the department in accordance with applicable federal regulations;

[(11)] **(12)** "Guaranteed tax base" means the amount of equalized assessed valuation per eligible pupil guaranteed each school district by the state in the computation of state aid. To compute the guaranteed tax base, school districts shall be ranked annually from lowest to highest according to the amount of equalized assessed valuation per pupil. The guaranteed tax base shall be based upon the amount of equalized assessed valuation per pupil of the school district in which the ninety-fifth percentile of the state aggregate number of pupils falls during the third **and fourth** preceding [year] **years** and shall be equal to the state average equalized assessed valuation per eligible pupil for the third **and fourth** preceding [year] **years** times two and one hundred and sixty-seven thousandths; except that, for the purposes of line 14(b) the guaranteed tax base shall be no greater than the guaranteed tax base used for the 1998-99 payment year. The average equalized assessed valuation per pupil shall be the quotient of the total equalized assessed valuation of the state divided by the number of eligible pupils;

[(12)] **(13)** "Membership" shall be the average of (1) the number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in September of the previous year and who were in attendance one day or more during the preceding ten school days and (2) the number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in January of the previous year and who were in attendance one day or more during the preceding ten school days, plus the full-time equivalent number of summer school pupils. "Full-time equivalent number of part-time students" is determined by dividing the total number of hours for which all part-time students are enrolled by the number of hours in the school term. "Full-time equivalent number of summer school pupils" is determined by dividing the total number of hours for which all summer school pupils were enrolled by the number of hours required pursuant to section 160.011, RSMo, in the school term. Only students eligible to be counted for average daily attendance shall be counted for membership;

[(13)] **(14)** "Operating levy for school purposes" for districts making transfers pursuant to subsection 4 of section 165.011, RSMo, based upon amounts multiplied by the guaranteed tax base, or making payments or expenditures related to obligations made pursuant to section 177.088, RSMo, or any combination of such transfers, payments or expenditures, means the sum of tax rates levied for teachers' and incidental funds plus the operating levy or sales tax equivalent pursuant to section 162.1100, RSMo, of any transitional school district containing the school district, in the payment year, and, for other districts, means the sum of tax rates levied for incidental, teachers', debt service and capital projects funds plus the operating levy or sales tax equivalent pursuant to section 162.1100, RSMo, of any transitional school district containing the school district, with no more than eighteen cents of the sum levied in the debt service and capital projects funds. Any portion of the operating levy for school purposes levied in the debt service and capital projects funds in excess of a sum of ten cents must be authorized by a vote of the people, after August 28, 1998, approving an increase in the operating levy, or a full waiver of the rollback pursuant to section 164.013, RSMo, with a tax rate ceiling in excess of the minimum tax rate or an issuance of general obligation bond. The operating levy shall be, after all adjustments and equalization of the operating levy, no greater than a maximum value of four dollars and ninety-five cents per one hundred dollars assessed valuation, except that the operating levy shall be no greater than a maximum value of four dollars and seventy cents per one hundred dollars assessed valuation for the purposes of line 2 of subsection 6 of section 163.031. To equalize the operating levy, multiply the aggregate tax rates for teachers' and incidental funds by either the percent of true value, as determined by the state tax commission on or before March fifteenth preceding the fiscal year in which the evaluation will be effective as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent, or the average percent of true value for the highest three of the last four years as determined and certified by the state tax commission, whichever is greater, and divide by the percent of true value as adjusted by the department of elementary and secondary education to an

equivalent sales ratio of thirty-three and one-third percent, provided that for any district for which the equivalent sales ratio is equal to or greater than thirty-three and one-third percent, the equalized operating levy shall be the adjusted operating levy. For any county in which the equivalent sales ratio is less than thirty-one and two-thirds percent, the state tax commission shall conduct a second study in that county and shall use a sample consisting of the parcels used as a sample in the original study combined with an equal number of newly selected parcels. If the new ratio is higher than the original ratio provided by this subdivision, the new ratio shall be used for the purposes of this subdivision and for determining equalized assessed valuation pursuant to subdivision [(8)] (9) of this section. For the purposes of calculating state aid pursuant to section 163.031, for any district which has not decreased its tax rate from the previous year amount due to an increased amount of a voluntary tax rate rollback, the tax rate used to determine a district's entitlement shall be adjusted so that any decrease in the entitlement due to a decrease in the tax rate resulting from the reassessment shall equal the decrease in the deduction for the assessed valuation of the district as a result of the change in the tax rate due to reassessment. The tax rate adjustments required under this subdivision due to reassessment shall be cumulative and shall be applied each year to determine the tax rate used to calculate the entitlement;

[(14)] (15) "School purposes" pertains to teachers' and incidental funds;

[(15)] (16) "Teacher" means any teacher, teacher-secretary, substitute teacher, supervisor, principal, supervising principal, superintendent or assistant superintendent, school nurse, social worker, counselor or librarian who shall, regularly, teach or be employed for no higher than grade twelve more than one-half time in the public schools and who is certified under the laws governing the certification of teachers in Missouri.

163.036. ESTIMATES OF AVERAGE DAILY ATTENDANCE, AUTHORIZED, HOW COMPUTED — ERROR IN COMPUTATION BETWEEN ACTUAL AND ESTIMATED ATTENDANCE, HOW CORRECTED — USE OF ASSESSED VALUATION FOR STATE AID — DELINQUENCY IN PAYMENT OF PROPERTY TAX, EFFECT ON ASSESSMENT. — 1. In computing the amount of state aid a school district is entitled to receive under section 163.031, a school district may use an estimate of the number of eligible pupils for the ensuing year, the number of eligible pupils for the immediately preceding year or the number of eligible pupils for the second preceding school year, whichever is greater. Except as otherwise provided in subsection 3 of this section, any error made in the apportionment of state aid because of a difference between the actual number of eligible pupils and the estimated number of eligible pupils shall be corrected as provided in section 163.091, except that if the amount paid to a district estimating eligible pupils exceeds the amount to which the district was actually entitled by more than five percent, interest at the rate of six percent shall be charged on the excess and shall be added to the amount to be deducted from the district's apportionment the next succeeding year.

2. Notwithstanding the provisions of subsection 1 of this section or any other provision of law, the state board of education shall make an adjustment for the immediately preceding year for any increase in the actual number of eligible pupils above the number on which the state aid in section 163.031 was calculated. Said adjustment shall be made in the manner providing for correction of errors under subsection 1 of this section.

3. (1) For any district which has, for at least five years immediately preceding the year in which the error is discovered, adopted a calendar for the school term in which elementary schools are in session for twelve months of each calendar year, any error made in the apportionment of state aid to such district because of a difference between the actual number of eligible pupils and the estimated number of eligible pupils shall be corrected as provided in section 163.091 and subsection 1 of this section, except that if the amount paid exceeds the amount to which the district was actually entitled by more than five percent and the district provides written application to the state board requesting that the deductions be made pursuant to subdivision (2) of this subsection, then the amounts shall be deducted pursuant to subdivision (2) of this subsection.

(2) For deductions made pursuant to this subdivision, interest at the rate of six percent shall be charged on the excess and shall be included in the amount deducted and the total amount of such excess plus accrued interest shall be deducted from the district's apportionment in equal monthly amounts beginning with the succeeding school year and extending for a period of months specified by the district in its written request and no longer than sixty months.

4. For the purposes of distribution of state school aid pursuant to section 163.031, a school district may elect to use the district's equalized assessed valuation for the preceding year, or an estimate of the current year's assessed valuation if the current year's equalized assessed valuation is estimated to be more than ten percent less than the district's equalized assessed valuation for the preceding year. A district shall give prior notice to the department of its intention to use the current year's assessed valuation pursuant to this subsection. Any error made in the apportionment of state aid because of a difference between the actual equalized assessed valuation for the current year and the estimated equalized assessed valuation for the current year shall be corrected as provided in section 163.091, except that if the amount paid to a district estimating current equalized assessed valuation exceeds the amount to which the district was actually entitled, interest at the rate of six percent shall be charged on the excess and shall be added to the amount to be deducted from the district's apportionment the next succeeding year.

5. For the purposes of distribution of state school aid pursuant to section 163.031, a school district with ten percent or more of its assessed valuation that is owned by one person or corporation as commercial or personal property who is delinquent in a property tax payment may elect, after receiving notice from the county clerk on or before March fifteenth, except in the year enacted, that more than ten percent of its current taxes due the preceding December thirty-first by a single property owner are delinquent, to use on line 2 of the state aid formula the district's equalized assessed valuation for the preceding year or the actual assessed valuation of the year for which the taxes are delinquent less the assessed valuation of property for which the current year's property tax is delinquent. To qualify for use of the actual assessed valuation of the year for which the taxes are delinquent less the assessed valuation of property for which the current year's property tax is delinquent, a district must notify the department of elementary and secondary education on or before April first, except in the year enacted, of the current year amount of delinquent taxes, the assessed valuation of such property for which delinquent taxes are owed and the total assessed valuation of the district for the year in which the taxes were due but not paid. Any district giving such notice to the department of elementary and secondary education shall present verification of the accuracy of such notice obtained from the clerk of the county levying delinquent taxes. When any of the delinquent taxes identified by such notice are paid during a four year period following the due date, the county clerk shall give notice to the district and the department of elementary and secondary education, and state aid paid to the district shall be reduced by an amount equal to the delinquent taxes received plus interest. The reduction in state aid shall occur over a period not to exceed five years and the interest rate on excess state aid not refunded shall be six percent annually.

6. If a district receives state aid based on equalized assessed valuation as determined by subsection 5 of this section and if prior to such notice the district was paid state aid pursuant to subdivision (2) of subsection 5 of section 163.031, the amount of state aid paid during the year of such notice and the first year following shall equal the sum of state aid paid pursuant to line 1 minus line 10 as defined in subsections 1, 2, 3 and 6 of section 163.031 plus the difference between the state aid amount being paid after such notice minus the amount of state aid the district would have received pursuant to line 1 minus line 10 as defined in subsections 1, 2, 3 and 6 of section 163.031 before such notice. To be eligible to receive state aid based on this provision the district must levy during the first year following such notice at least the maximum levy permitted school districts by article

X, section 11(b) of the Missouri Constitution and have a voluntary rollback of its tax rate which is no greater than one cent per one hundred dollars assessed valuation.

166.260. CHILDREN AT-RISK IN EDUCATION PROGRAM ESTABLISHED — PURPOSES. —

There is hereby created the "Children At-Risk in Education Program" which shall be administered by the commissioner of education. The program shall be funded by moneys provided to school districts pursuant to line 14 of subsection 6 of section 163.031, RSMo, and used solely as determined by local boards of education for: reductions of class size in schools containing high concentrations of children who are least advantaged or who have specially identified educational needs according to rule and regulation of the state board of education; or the following:

(1) The program of half-day instruction for developmentally delayed and at-risk children established pursuant to section 167.260, RSMo;

(2) The program to provide teacher assistants in grades kindergarten through three established pursuant to section 167.263, RSMo;

(3) The program of family literacy for children and families of children at risk of dropping out of school pursuant to section 160.531, RSMo;

[(3)] (4) The program to provide guidance counselors in grades kindergarten through nine established pursuant to section 167.265, RSMo;

[(4)] (5) The programs for pupils at risk of becoming high school dropouts established pursuant to section 167.270, RSMo, including specialized courses of instruction, alternative education programs for pregnant teens and teen mothers and supplemental services for teen mothers;

[(5)] (6) The program of support services to pupils identified as having a high risk of dropping out of school established pursuant to section 167.280, RSMo;

[(6)] (7) The program of professional development committees for in-service training on teaching children identified as at risk of failing in school pursuant to section 168.400, RSMo;

[(7)] (8) A program to contract for mental health services to meet the needs of children who are identified as being at risk of failing school as a result of emotional or environmental factors. Eligible contractors shall be approved by the department of mental health;

[(8)] (9) The program of special education and other special services for at-risk and handicapped children in grades kindergarten through third grade emphasizing prevention and early intervention, rather than remediation, known as the "Success for All Program";

[(9)] (10) Paying for building site operating costs in the proportion that the free and reduced-price meal eligible student count is to the total enrollment in that building; and

[(10)] (11) Other programs as approved by the commissioner of education that are exclusively targeted to provide educational services for students who are least advantaged or who have specially identified educational needs.

168.400. PROGRAMS ESTABLISHED FOR PUBLIC SCHOOL PERSONNEL — CONTENTS. —

1. Sections 168.400 to 168.415 shall be known and may be cited as the "Missouri Professional Teacher and Administrator Act". This section shall become effective September 1, 1988, and shall establish programs for the following public school personnel:

- (1) The preservice teacher or student in training;
- (2) The beginning teacher;
- (3) The practicing teacher; and
- (4) The administrator.

2. Preservice teacher programs established under this section shall include, but need not be limited to, the following provisions:

(1) A program of entry-level testing of all prospective teacher education students shall be established at all colleges and universities offering approved teacher education programs and, with the advice of the advisory council as provided in section 168.015, shall be administered by

the commissioner of education, who shall cause the department of elementary and secondary education to develop or select such tests to establish abilities necessary to receive a satisfactory rating, and to establish procedures for the administering of the test;

(2) The entry-level tests developed under this subsection shall include, but need not be limited to, an examination of basic oral and written communication skills and of basic mathematics skills, and may include both oral and written examinations;

(3) Each prospective teacher education student shall be required to obtain a satisfactory rating prior to admission into the approved teacher education program;

(4) The department of elementary and secondary education, with the advice of the advisory council as provided in section 168.015, shall establish and monitor exit requirements from approved teacher education programs which shall be met by all preservice teacher education students seeking certification in Missouri, and specific criteria for a preservice teacher assessment that all candidates for certification shall meet. The preservice teacher assessment established under this subdivision shall include, but need not be limited to, classroom achievement, practice teaching evaluation and observation, successful participation in assessment centers, interviews, tests and other evaluation measures. **The department of elementary and secondary education shall promulgate rules to allow all preservice teacher education students who have been employed for at least two years as teacher assistants to utilize their teacher assistant experience to bypass the practice teaching evaluation and observation process. These rules shall allow the certified teacher working with the teacher assistant to observe and evaluate the teacher assistants practice teaching. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.** The preservice teacher assessment shall be reviewed by the certifying authority prior to issuance of a certificate. An unsatisfactory assessment shall result in the nonissuance of a certificate. Persons who are aggrieved by the nonissuance of a certificate may appeal such nonissuance in the manner provided in section 168.071. Any costs associated with the entry-level tests or the exit requirements established under this subsection shall be borne by each institution and costs defrayal included in the incidental fees charged to the student.

3. Each approved teacher education program shall require the faculty teaching preservice teacher education courses to further their professional development through direct personal involvement in the public schools in grades kindergarten through twelve on a periodic basis. As used in this subsection, the term "faculty" shall include, but need not be limited to, full- and part-time classroom instructors, and supervisors of practice teaching at institutions offering an approved teacher education program.

4. Beginning teacher assistance programs established under this section shall include, but need not be limited to, the following provisions:

(1) Such programs shall require each school district to provide a plan of professional development for the first two years of teaching for any teacher who does not have prior teaching experience. The professional development plan shall include assistance from a professional development committee, which is hereby established in each school district, which committee shall work with beginning teachers and experienced teachers in identifying instructional concerns and remedies; serve as a confidential consultant upon a teacher's request; assess faculty needs and develop in-service opportunities for school staff; and present to the proper authority faculty suggestions, ideas and recommendations pertaining to classroom instruction within the school district. The members of each professional development committee shall be selected by the teachers employed by the school district in question. The professional development plan may include guidance from a district-designated faculty member employed at a grade level comparable to the instructional grade level of the beginning teacher, and such other forms of assistance which the school district may choose to offer. The professional development committee may apply to the state board of education for a grant, which shall be in addition to any state aid provided to the committee for activities identified in this subdivision. The grant thus awarded shall be used by the committee to provide in-service training to the teachers of the

district on teaching children identified as at risk of failing in school as defined in section 167.273. The department of elementary and secondary education shall provide resource materials and assist the committee if such assistance is requested;

(2) Such programs shall include assistance from the teacher education program which provided the teacher's training if such training was provided in a Missouri college or university. Such assistance from the college or university may include retraining, internships, counseling, and in-service training.

5. The practicing teacher assistance programs established under this section shall include, but need not be limited to, programs of professional development and improvement as provided for experienced teachers by the professional development committee established under subsection 4 of this section, and in-service opportunities as provided by the local school district for all practicing teachers.

6. (1) The administrator assistance programs established under this section shall include, but shall not be limited to, programs of professional development and improvement for superintendents, principals, assistant principals, and other school district personnel charged with administrative duties.

(2) Establishment of programs by local districts and organizations for the training of school board members are encouraged and recommended.

170.014. READING INSTRUCTION ACT — READING PROGRAMS ESTABLISHED, ESSENTIAL COMPONENTS — EXPLICIT SYSTEMIC PHONICS DEFINED. — 1. This section shall be known as the "Reading Instruction Act" and is enacted to ensure that all public schools establish reading programs in kindergarten through grade three based in scientific research. Such programs shall include the essential components of phonemic awareness, phonics, fluency, vocabulary, and comprehension, and all new teachers who teach reading in kindergarten through grade three shall receive adequate training in these areas.

2. The program described in subsection 1 of this section may include "explicit systematic phonics", which, for the purposes of this section, shall mean the methodology of pronouncing and reading words by learning the phonetic sound association of individual letters, letter groups, and syllables, and the principles governing these associations.

3. Every public school in the state shall offer a reading program as described in subsection 1 of this section for kindergarten through grade three.

Approved June 19, 2002

HB 1715 [HB 1715]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Expands the use of state-funded interpreters for the deaf in judicial proceedings.

AN ACT to repeal section 476.753, RSMo, and to enact in lieu thereof one new section relating to interpreters for the hearing impaired.

SECTION

A. Enacting clause.

476.753. Interpretation of proceedings, when — admissibility of evidence — indigent persons.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 476.753, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 476.753, to read as follows:

476.753. INTERPRETATION OF PROCEEDINGS, WHEN — ADMISSIBILITY OF EVIDENCE — INDIGENT PERSONS. — 1. A designated responsible authority shall provide, based on a deaf person's expressed needs, auxiliary aids and services to interpret the proceedings to a deaf person and, if a deaf person gives testimony or other communication, to interpret the deaf person's testimony or other communication when:

(1) A deaf person is a party, juror or witness at any stage of any judicial or quasi-judicial proceeding in this state or in its political subdivisions, including, but not limited to, any civil proceeding, criminal court proceeding or administrative hearing, preliminary hearing, postconviction proceeding, grand jury proceeding, proceeding before a magistrate, juvenile proceeding, adoption proceeding, parole or probation revocation proceeding or special proceeding;

(2) A juvenile whose parent, guardian or foster parent or other legally responsible party is deaf and such juvenile is brought before a court in any proceeding, including, but not limited to, any civil, criminal, or juvenile proceeding, including any investigation, interview or any other proceeding regarding the juvenile **that is authorized by or held under the supervision of a court**;

(3) A deaf person in any proceeding who may be subjected to confinement or criminal sanction or in any proceeding preliminary thereto, including, but not limited to, any coroner's inquest, grand jury proceeding, proceeding before a magistrate, juvenile proceeding and mental health commitment proceeding;

(4) There is any proceeding concerning the well-being or rehabilitation of a deaf person within a state prison, **or juvenile detention or correctional facility**, including, but not limited to, any disciplinary hearing, parole hearing, psychological evaluation/hearing, administrative hearing, sexual assault prevention program, counseling, medical care, any on-the-job or vocational training or any educational program.

2. No answer, statement, admission or other information, written or oral, shall be admissible as evidence in any judicial or administrative proceeding if obtained from a deaf person who is involuntarily detained or arrested before an interpreter or auxiliary aids and services are provided to that deaf person, based on the deaf person's expressed needs. No deaf arrestee, otherwise eligible for release, shall be held in custody pending arrival of an interpreter or auxiliary aids and services.

3. It is the policy and practice of any court of this state or of any of its political subdivisions to appoint counsel for indigent people in criminal proceedings, and the designated responsible authority shall provide and pay for an interpreter or provide auxiliary aids and services for deaf indigent people to assist in communication with counsel in all phases of the preparation and presentation of the case.

Approved July 2, 2002

HB 1756 [HS HCS HB 1756]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates crimes for sexual offenders who know they have HIV, amends HIV notification statutes, HIV disclosure statutes, prosecutors motion for HIV testing and the punishment for prostitution.

AN ACT to repeal sections 191.656, 191.659, 191.677, and 567.020, RSMo, and to enact in lieu thereof five new sections relating to sexually transmitted diseases, with penalty provisions.

SECTION

- A. Enacting clause.
- 191.656. Confidentiality of reports and records, exceptions — violation, civil action for injunction, damages, costs and attorney fees — health care provider participating in judicial proceeding, immune from civil liability.
- 191.659. Department of corrections, HIV testing without right of refusal — exception — minors victim of sexual assault, testing, notice to parents or custodians required.
- 191.677. Prohibited acts, criminal penalties.
- 566.135. Defendant may be tested for various sexually transmitted diseases, when.
- 567.020. Prostitution.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 191.656, 191.659, 191.677 and 567.020, RSMo, are repealed and five new sections enacted in lieu thereof, and to be known as sections 191.656, 191.659, 191.677, 566.135 and 567.020, to read as follows:

191.656. CONFIDENTIALITY OF REPORTS AND RECORDS, EXCEPTIONS — VIOLATION, CIVIL ACTION FOR INJUNCTION, DAMAGES, COSTS AND ATTORNEY FEES — HEALTH CARE PROVIDER PARTICIPATING IN JUDICIAL PROCEEDING, IMMUNE FROM CIVIL LIABILITY. — 1. (1) All information known to, and records containing any information held or maintained by, any person, or by any agency, department, or political subdivision of the state concerning an individual's HIV infection status or the results of any individual's HIV testing shall be strictly confidential and shall not be disclosed except to:

(a) Public employees within the agency, department, or political subdivision who need to know to perform their public duties;

(b) Public employees of other agencies, departments, or political subdivisions who need to know to perform their public duties;

(c) Peace officers, as defined in section 590.100, RSMo, the attorney general or any assistant attorneys general acting on his or her behalf, as defined in chapter 27, RSMo, and prosecuting attorneys or circuit attorneys as defined in chapter 56, RSMo, and pursuant to section 191.657;

(d) Prosecuting attorneys or circuit attorneys as defined in chapter 56, RSMo, to prosecute cases pursuant to section 191.677 or 567.020, RSMo. Prosecuting attorneys or circuit attorneys may obtain from the department of health the contact information and test results of individuals with whom the HIV-infected individual has had sexual intercourse or deviate sexual intercourse. Any prosecuting attorney or circuit attorney who receives information from the department of health and senior services pursuant to the provisions of this section shall use such information only for investigative and prosecutorial purposes and such information shall be considered strictly confidential and shall only be released as authorized by this section;

[(d)] (e) Persons other than public employees who are entrusted

[(d)] (f) Persons other than public employees who are entrusted with the regular care of those under the care and custody of a state agency, including but not limited to operators of day care facilities, group homes, residential care facilities and adoptive or foster parents;

[(e)] (g) As authorized by subsection 2 of this section;

(h) Victims of any sexual offense defined in chapter 566, RSMo, which includes sexual intercourse or deviate sexual intercourse, as an element of the crime or to a victim of a section 566.135, RSMo, offense, in which the court, for good cause shown, orders the defendant to be tested for HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, or chlamydia, once the charge is filed. Prosecuting attorneys or circuit attorneys, or the department of health and senior services may release information to such victims;

(i) **Any individual who has tested positive or false positive to HIV, Hepatitis B, Hepatitis C, Syphilis, Gonorrhea, or Chlamydia, may request copies of any and all test results relating to said infections.**

(2) Further disclosure by public employees shall be governed by subsections 2 and 3 of this section;

(3) Disclosure by a public employee or any other person in violation of this section may be subject to civil actions brought under subsection 6 of this section, unless otherwise required by chapter 330, 332, 334, or 335, RSMo, pursuant to discipline taken by a state licensing board.

2. (1) Unless the person acted in bad faith or with conscious disregard, no person shall be liable for violating any duty or right of confidentiality established by law for disclosing the results of an individual's HIV testing:

(a) To the department of health and senior services;

(b) To health care personnel working directly with the infected individual who have a reasonable need to know the results for the purpose of providing direct patient health care;

(c) Pursuant to the written authorization of the subject of the test result or results;

(d) To the spouse of the subject of the test result or results;

(e) To the subject of the test result or results;

(f) To the parent or legal guardian or custodian of the subject of the testing, if he is an unemancipated minor;

(g) To the victim of any sexual offense defined in chapter 566, RSMo, which includes sexual intercourse **or deviate sexual intercourse**, as an element of the crime **or to a victim of a section 566.135, RSMo, offense, in which the court, for good cause shown, orders the defendant to be tested for HIV, B, hepatitis C, syphilis, gonorrhea, or chlamydia, once the charge is filed;**

(h) To employees of a state licensing board in the execution of their duties under chapter 330, 332, 334, or 335, RSMo, pursuant to discipline taken by a state licensing board; **The department of health and senior services and its employees shall not be held liable for disclosing an HIV infected person's HIV status to individuals with whom that person had sexual intercourse or deviate sexual intercourse;**

(2) Paragraphs (b) and (d) of subdivision (1) of this subsection shall not be construed in any court to impose any duty on a person to disclose the results of an individual's HIV testing to a spouse or health care professional or other potentially exposed person, parent or guardian;

(3) No person to whom the results of an individual's HIV testing has been disclosed pursuant to paragraphs (b) and (c) of subdivision (1) of this subsection shall further disclose such results; **except that prosecuting attorneys or circuit attorneys may disclose such information to defense attorneys defending actions pursuant to section 191.677 or 567.020, RSMo, under the rules of discovery, or jurors or court personnel hearing cases pursuant to section 191.677 or 567.020, RSMo. Such information shall not be used or disclosed for any other purpose;**

(4) When the results of HIV testing, disclosed pursuant to paragraph (b) of subdivision (1) of this subsection, are included in the medical record of the patient who is subject to the test, the inclusion is not a disclosure for purposes of such paragraph so long as such medical record is afforded the same confidentiality protection afforded other medical records.

3. All communications between the subject of HIV testing and a physician, hospital, or other person authorized by the department of health and senior services who performs or conducts HIV sampling shall be privileged communications.

4. The identity of any individual participating in a research project approved by an institutional review board shall not be reported to the department of health and senior services by the physician conducting the research project.

5. The subject of HIV testing who is found to have HIV infection **and is aware of his or her HIV status** shall disclose such information to any health care professional from whom such person receives health care services. Said notification shall be made prior to receiving services

from such health care professional **if the HIV infected person is medically capable of conveying that information or as soon as he or she becomes capable of conveying that information.**

6. Any individual aggrieved by a violation of this section or regulations promulgated by the department of health and senior services may bring a civil action for damages. If it is found in a civil action that:

- (1) A person has negligently violated this section, the person is liable, for each violation, for:
 - (a) The greater of actual damages or liquidated damages of one thousand dollars; and
 - (b) Court costs and reasonable attorney's fees incurred by the person bringing the action;
- and
- (c) Such other relief, including injunctive relief, as the court may deem appropriate; or
- (2) A person has willfully or intentionally or recklessly violated this section, the person is liable, for each violation, for:

- (a) The greater of actual damages or liquidated damages of five thousand dollars; and
- (b) Exemplary damages; and
- (c) Court costs and reasonable attorney's fees incurred by the person bringing the action; and
- (d) Such other relief, including injunctive relief, as the court may deem appropriate.

7. No civil liability shall accrue to any health care provider as a result of making a good faith report to the department of health and senior services about a person reasonably believed to be infected with HIV, or cooperating in good faith with the department in an investigation determining whether a court order directing an individual to undergo HIV testing will be sought, or in participating in good faith in any judicial proceeding resulting from such a report or investigations; and any person making such a report, or cooperating with such an investigation or participating in such a judicial proceeding, shall be immune from civil liability as a result of such actions so long as taken in good faith.

191.659. DEPARTMENT OF CORRECTIONS, HIV TESTING WITHOUT RIGHT OF REFUSAL — EXCEPTION — MINORS VICTIM OF SEXUAL ASSAULT, TESTING, NOTICE TO PARENTS OR CUSTODIANS REQUIRED. — 1. Except as provided in subsection 2 of this section, all individuals who are delivered to the department of corrections and all individuals who are released or discharged from any correctional facility operated by the department of corrections, before such individuals are released or discharged, shall undergo HIV testing without the right of refusal. In addition, the department of corrections may perform or conduct HIV testing on all individuals required to undergo annual or biannual physical examinations by the department of corrections at the time of such examinations.

2. The department of corrections shall not perform HIV testing on an individual delivered to the department if similar HIV testing has been performed on the individual subsequent to trial and if the department is able to obtain the results of the prior HIV test.

3. The department shall inform the victim of any sexual offense defined in chapter 566, RSMo, which includes sexual intercourse **or deviate sexual intercourse** as an element of the crime, of any confirmed positive results of HIV testing on an offender within the custody of the department. If the victim is an unemancipated minor, the department shall also inform the minor's parents or custodian, if any.

191.677. PROHIBITED ACTS, CRIMINAL PENALTIES. — 1. It shall be unlawful for any individual knowingly infected with HIV to:

- (1) Be or attempt to be a blood, blood products, organ, sperm or tissue donor except as deemed necessary for medical research; [or]
- (2) Act in a reckless manner by exposing another person to HIV without the knowledge and consent of that person to be exposed to HIV, **in one of the following manners:**
 - (a) Through contact with blood, semen or vaginal [fluid] **secretions** in the course of oral, anal or vaginal sexual intercourse[.]; or

(b) By the sharing of needles; or

(c) **By biting another person or purposely acting in any other manner which causes the HIV infected person's semen, vaginal secretions, or blood to come into contact with the mucous membranes or nonintact skin of another person.**

Evidence that a person has acted recklessly in creating a risk of infecting another individual with HIV shall include, but is not limited to, the following:

[(a)] **a.** The HIV infected person knew of such infection before engaging in sexual activity with another person, **sharing needles with another person, biting another person, or purposely causing his or her semen, vaginal secretions, or blood to come into contact with the mucous membranes or nonintact skin of another person,** and such other person is unaware of the HIV infected person's condition or does not consent to contact with blood, semen or vaginal fluid in the course of [sexual activity, or by the sharing of needles] **such activities;**

[(b)] **b.** The HIV infected person has subsequently been infected with and tested positive to primary and secondary syphilis, or gonorrhea, or chlamydia; or

[(c)] **c.** Another person provides [corroborated] evidence of sexual contact with the HIV infected person after a diagnosis of an HIV status.

2. Violation of the provisions of **subdivision (1) or (2) of subsection 1 of this section** is a class [D] **B felony unless the victim contracts HIV from the contact in which case it is a class A felony.**

3. [Violation of the provisions of subsection 1 of this section with a person under the age of seventeen is a class C felony if the actor is over the age of twenty-one.

4.] The department of health and senior services or local law enforcement agency, victim or others may file a complaint with the prosecuting attorney **or circuit attorney** of a court of competent jurisdiction alleging that [an individual] **a person** has violated a provision of subsection 1 of this section. The department of health and senior services shall assist the prosecutor **or circuit attorney** in preparing such case[.], **and upon request, turn over to peace officers, police officers, the prosecuting attorney or circuit attorney, or the attorney general records concerning that person's HIV-infected status, testing information, counseling received, and the identity and available contact information for individuals with whom that person had sexual intercourse or deviate sexual intercourse and those individuals' test results.**

4. The use of condoms is not a defense to a violation of paragraph (a) of subdivision (2) of subsection 1 of this section.

566.135. DEFENDANT MAY BE TESTED FOR VARIOUS SEXUALLY TRANSMITTED DISEASES, WHEN. — 1. Pursuant to a motion filed by the prosecuting attorney or circuit attorney with notice given to the defense attorney and for good cause shown, in any criminal case in which a defendant has been charged by the prosecuting attorney's office or circuit attorney's office with any offense under this chapter or pursuant to section 575.150, 567.020, 565.050, 565.060, 565.070, 565.072, 565.073, 565.074, 565.075, 565.081, 565.082, 565.083, 568.045, 568.050, or 568.060, RSMo, or paragraph (a),(b), or (c), of subdivision (4) of subsection 1 of section 191.677, RSMo, the court may order that the defendant be conveyed to a state, city, or county operated HIV clinic for testing for HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia. The results of the defendant's HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia tests shall be released to the victim and his or her parent or legal guardian if the victim is a minor. The results of the defendant's HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia tests shall also be released to the prosecuting attorney or circuit attorney and the defendant's attorney. The state's motion to obtain said testing, the court's order of the same, and the test results shall be sealed in the court file.

2. As used in this section "HIV", means the human immunodeficiency virus that causes acquired immunodeficiency syndrome.

567.020. PROSTITUTION. — 1. A person commits the crime of prostitution if the person performs an act of prostitution.

2. Prostitution is a class B misdemeanor **unless the person knew prior to performing the act of prostitution that he or she was infected with HIV in which case prostitution is a class B felony. The use of condoms is not a defense to this crime.**

3. As used in this section, "HIV" means the human immunodeficiency virus that causes acquired immunodeficiency syndrome.

[3.] 4. The judge may order a drug and alcohol abuse treatment program for any person found guilty of prostitution, either after trial or upon a plea of guilty, before sentencing. **For the class B misdemeanor offense, upon the successful completion of such program by the defendant, the court [shall] may at its discretion allow the defendant to withdraw the plea of guilty or reverse the verdict and enter a judgment of not guilty. For the class B felony offense, the court shall not allow the defendant to withdraw the plea of guilty or reverse the verdict and enter a judgment of not guilty. The judge, however, has discretion to take into consideration successful completion of a drug or alcohol treatment program in determining the defendant's sentence.**

Approved July 2, 2002

HB 1768 [HB 1768]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Increases the life of liens of judgments or decrees on real estate rendered after August 28, 1998, from three to ten years.

AN ACT to repeal section 511.360, RSMo, and to enact in lieu thereof one new section relating to liens of a judgment or decree on real estate.

SECTION

A. Enacting clause.

511.360. Commencement, extent and duration of lien — applicability of duration of lien.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 511.360, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 511.360, to read as follows:

511.360. COMMENCEMENT, EXTENT AND DURATION OF LIEN — APPLICABILITY OF DURATION OF LIEN. — The lien of a judgment or decree shall extend as well to the real estate acquired after the rendition thereof, as to that which was owned when the judgment or decree was rendered. Such liens shall commence on the day of the rendition of the judgment, and shall continue for ten years, subject to be revived as herein provided; but when two or more judgments or decrees are rendered at the same term, as between the parties entitled to such judgments or decrees, the lien shall commence on the last day of the term at which they are rendered. **The provisions of this section relating to the duration of the lien on real estate shall apply only to judgments or decrees rendered or revived after August 28, 1998, and, for all judgments or decrees entered prior to such date, the lien of such judgment or decree shall continue for three years from the date such lien commenced.**

Approved July 12, 2002

HB 1773 [SCS HB 1773]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises the salary matrix for police officers in certain cities.

AN ACT to repeal sections 84.140 and 84.160, RSMo, and to enact in lieu thereof two new sections relating to the police force in certain cities, with an emergency clause.

SECTION

- A. Enacting clause.
- 84.140. Vacations, holidays and off-duty time.
- 84.160. Annual salary tables — overtime, how compensated — other employment benefits — unused vacation, compensation for certain officers.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 84.140 and 84.160, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 84.140 and 84.160, to read as follows:

84.140. VACATIONS, HOLIDAYS AND OFF-DUTY TIME. — The boards [shall] **may** grant every member of the police force [hired prior to May 1, 1986,] **who has served for one year or more** a total of three weeks vacation each year with pay, and each member of the police force who has served the department for twelve years or more [shall] **may** receive four weeks vacation each year with pay, and each member of the police force who has served the department for twenty-one years or more shall receive five weeks vacation each year with pay; [however, the boards shall grant every member of the police force hired on or after May 1, 1986, a total of two weeks vacation each year with pay, and each such member of the police force who has served the department for five years or more shall receive three weeks vacation each year with pay, and each such member of the police force who has served the department for twelve years or more shall receive four weeks vacation each year with pay, and each such member of the police force who has served the department for twenty-one years or more shall receive five weeks vacation each year with pay] **however the board may grant an additional week of paid vacation to members after one year of service.** All members of the police force [shall] **may** receive [fourteen] **fifteen** holidays with pay, **however the board may grant additional holidays with pay**, and one hundred four days off duty each year with pay, and the boards may from time to time grant additional days off duty each year with pay when in the judgment of the boards, the granting thereof will not materially impair the efficiency of the department.

84.160. ANNUAL SALARY TABLES — OVERTIME, HOW COMPENSATED — OTHER EMPLOYMENT BENEFITS — UNUSED VACATION, COMPENSATION FOR CERTAIN OFFICERS. —

1. Based upon rank and length of service, the board of police commissioners may authorize maximum amounts of compensation for members of the police force in accordance with the following tables. The amounts of compensation set out in the following tables shall be the maximum amount of compensation payable to commissioned employees in each of the categories, except as expressly provided in this section.

2. [From July 1, 2000, to June 30, 2001:

SALARY MATRIX-POLICE OFFICER THROUGH CHIEF OF POLICE-FISCAL YEAR

Yrs.	P.O. Salary	Sgt. Salary	Lieut. Salary	Capt. Salary	Maj. Salary	Lt. Col. Salary	Asst. Chief Salary	Chief Salary
0	30564							
1	31730							
2	32809							
3	34812							
4	35803							
5	37090	45238						
6	38377	45380						
7	40847	48252	53180					
8	42620	50320	55442					
9	43608	51455	56677	61851				
10	43768	51615	56837	62011				
11	44272	51773	56995	62171	68115			
12	44439	51932	57156	62329	68274	70122	73845	87813
13	44597	52093	57314	62490	68432	72547	76269	88131
14	44756	52252	57474	62647	68591	72704	76427	88449
15	44916	52411	57632	62807	68751	72865	76588	88767
16	45074	52569	57791	62965	68910	73023	76746	89085
17	45235	52730	57952	63126	69070	73183	76906	89404
18	45394	52889	58110	63352	69228	73341	77065	89721
19	45552	53048	58271	63444	69388	73500	77223	90042
20	45711	53207	58428	63603	69547	73661	77384	90359
21	45870	53364	58588	63761	69707	73819	77541	90677
22	46030	53526	58748	63922	69865	73980	77702	90995
23	46190	53684	58907	64080	70023	74137	77861	91314
24	46348	53844	59067	64240	70183	74298	78020	91631
25	46508	54003	59224	64400	70343	74457	78180	91951
26	46666	54161	59384	64559	70503	74615	78338	92270
27	46828	54322	59543	64718	70661	74776	78498	92589
28	46985	54481	59703	64876	70819	74933	78657	92906
29	47144	54640	59861	65036	70980	75095	78816	93223
30	47304	54798	60021	65193	71139	75252	78977	93542

3. From July 1, 2001, until June 30, 2002:

SALARY MATRIX-POLICE OFFICER THROUGH CHIEF OF POLICE-FISCAL YEAR

Yrs.	P.O. Salary	Sgt. Salary	Lieut. Salary	Capt. Salary	Maj. Salary	Lt Col. Salary	Asst. Chief Salary	Chief Salary
0	31481							
1	32682							
2	33793							
3	35856							
4	36877							
5	38203	46595						
6	39529	46741						
7	42073	49700	54776					
8	43898	51829	57105					
9	45788	54028	59511	64943				
10	45957	54195	59678	65111				
11	46485	54363	59844	65279	71520			

12	46661	54529	60013	65446	71688	73629	77538	92204
13	46827	54697	60180	65614	71853	76173	80082	92537
14	46993	54865	60347	65780	72021	76339	80249	92871
15	47162	55031	60514	65947	72188	76508	80418	93205
16	47328	55198	60680	66114	72356	76674	80583	93540
17	47497	55366	60849	66282	72524	76843	80752	93874
18	47663	55533	61016	66519	72689	77008	80918	94207
19	47829	55700	61184	66616	72857	77175	81084	94543
20	47997	55867	61350	66783	73025	77343	81254	94878
21	48164	56033	61517	66950	73192	77510	81419	95211
22	48331	56202	61685	67117	73358	77679	81587	95545
23	48499	56369	61852	67285	73525	77844	81754	95880
24	48665	56535	62020	67452	73692	78014	81921	96212
25	48833	56703	62186	67620	73861	78179	82090	96548
26	49000	56869	62353	67787	74028	78346	82255	96883
27	49169	57038	62521	67953	74194	78515	82423	97218
28	49335	57205	62688	68121	74360	78680	82588	97552
29	49501	57371	62853	68288	74529	78849	82757	97884
30	49668	57539	63022	68453	74696	79014	82926	98220]

From July 1, 2002, until June 30, 2003:

SALARY MATRIX-POLICE OFFICER THROUGH CHIEF OF POLICE-FISCAL YEAR

Yrs.	P.O. Salary	Sgt. Salary	Lieut. Salary	Capt. Salary	Maj. Salary	Lt. Col. Salary	Asst Chief Salary	Chief Salary
0	32981							
1	34182							
2	35293							
3	37356							
4	38377							
5	39703	48095						
6	41029	48241						
7	43573	51200	56276					
8	45398	53329	58605					
9	47288	55528	61011	66443				
10	47457	55695	61178	66611				
11	47985	55863	61344	66779	73020			
12	48161	56029	61513	66946	73188	75129	79038	93704
13	48327	56197	61680	67114	73353	77673	81582	94037
14	48493	56365	61847	67280	73521	77839	81749	94371
15	48662	56531	62014	67447	73688	78008	81918	94705
16	48828	56698	62180	67614	73856	78174	82083	95040
17	48997	56866	62349	67782	74024	78343	82252	95374
18	49163	57033	62516	68019	74189	78508	82418	95707
19	49329	57200	62684	68116	74357	78675	82584	96043
20	49497	57367	62850	68283	74525	78843	82754	96378
21	49664	57533	63017	68450	74692	79010	82919	96711
22	49831	57702	63185	68617	74858	79179	83087	97045
23	49999	57869	63352	68785	75025	79344	83254	97380
24	50165	58035	63520	68952	75192	79514	83421	97712
25	50333	58203	63686	69120	75361	79679	83590	98048
26	50500	58369	63853	69287	75528	79846	83755	98383
27	50669	58538	64021	69453	75694	80015	83923	98718

28	50835	58705	64188	69621	75860	80180	84088	99052
29	51001	58871	64353	69788	76029	80349	84257	99384
30	51168	59039	64522	69953	76196	80514	84426	99720

[4.] 3. Each of the above-mentioned salaries shall be payable in biweekly installments. Each officer of police and patrolman whose regular assignment requires nonuniformed attire may receive, in addition to his or her salary, an allowance not to exceed three hundred sixty dollars per annum payable biweekly. No additional compensation or compensatory time off for overtime, court time, or standby court time shall be paid or allowed to any officer of the rank of sergeant or above. Notwithstanding any other provision of law to the contrary, nothing in this section shall prohibit the payment of additional compensation pursuant to this subsection to officers of the ranks of sergeants and above, provided that funding for such compensation shall not:

(1) Be paid from the general funds of either the city or the board of police commissioners of the city; or

(2) Be violative of any federal law or other state law.

[5.] 4. It is the duty of the municipal assembly or common council of the cities to make the necessary appropriation for the expenses of the maintenance of the police force in the manner herein and hereafter provided; provided, that in no event shall such municipal assembly or common council be required to appropriate for such purposes (including, but not limited to, costs of funding pensions or retirement plans) for any fiscal year a sum in excess of any limitation imposed by article X, section 21, Missouri Constitution; and provided further, that such municipal assembly or common council may appropriate a sum in excess of such limitation for any fiscal year by an appropriations ordinance enacted in conformity with the provisions of the charter of such cities.

[6.] 5. The board of police commissioners shall pay additional compensation for all hours of service rendered by probationary patrolmen and patrolmen in excess of the established regular working period, and the rate of compensation shall be one and one-half times the regular hourly rate of pay to which each member shall normally be entitled; except that, the court time and court standby time shall be paid at the regular hourly rate of pay to which each member shall normally be entitled. No credit shall be given or deductions made from payments for overtime for the purpose of retirement benefits.

[7.] 6. Probationary patrolmen and patrolmen shall receive additional compensation for authorized overtime, court time and court standby time whenever the total accumulated time exceeds forty hours. The accumulated forty hours shall be taken as compensatory time off at the officer's discretion with the approval of his supervisor.

[8.] 7. The allowance of compensation or compensatory time off for court standby time shall be computed at the rate of one-third of one hour for each hour spent on court standby time.

[9.] 8. The board of police commissioners may effect programs to provide additional compensation to its employees for successful completion of academic work at an accredited college or university, in amounts not to exceed ten percent of their yearly salaries or for [extra training] **field training officer** and lead officer responsibilities in amounts not to exceed three percent of their yearly salaries for field training officer responsibilities and an additional three percent of their yearly salaries for lead officer responsibilities. The board may designate up to one hundred fifty employees as field training officers and up to fifty employees as lead officers.

[10.] 9. The board of police commissioners:

(1) Shall provide or contract for life insurance coverage and for insurance benefits providing health, medical and disability coverage for officers and employees of the department;

(2) Shall provide or contract for insurance coverage providing salary continuation coverage for officers and employees of the police department;

(3) Shall provide health, medical, and life insurance coverage for retired officers and employees of the police department;

(4) May pay an additional shift differential compensation to members of the police force for evening and night tour of duty in an amount not to exceed ten percent of the officer's base hourly rate.

[11.] **10.** The board of police commissioners shall pay additional compensation to members of the police force up to and including the rank of police officer for any full hour worked between the hours of 11:00 p.m. and 7:00 a.m., in amounts equal to five percent of the officer's base hourly pay.

[12.] **11.** The board of police commissioners, from time to time and in its discretion, may pay additional compensation to police officers, sergeants and lieutenants by paying commissioned officers in the aforesaid ranks for accumulated, unused vacation time. Any such payments shall be made in increments of not less than forty hours, and at rates equivalent to the base straight-time rates being earned by said officers at the time of payment; except that, no such officer shall be required to accept payment for accumulated unused vacation time.

[13. For each fiscal year between July 1, 2000, and June 30, 2002, the board of police commissioners may provide a salary increase for commissioned employees of years 0-8 in an amount in excess of the maximum amounts set out in the tables in subsections 2 and 3 of this section, provided that the amount actually paid pursuant to this section shall not exceed three percent of the amount set out for the appropriate category in such tables.

14. For each fiscal year between July 1, 2000, and June 30, 2002, the board of police commissioners may provide a salary increase for commissioned employees of years 9-30 in an amount in excess of the maximum amounts set out in the tables in subsections 2 and 3 of this section, provided that the amount actually paid pursuant to this section shall not exceed one percent of the amount set out for the appropriate category in such tables.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure appropriate salaries for police officers, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 28, 2002

HB 1776 [SCS HB 1776]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Transfers custodianship of the county recorder's fund to the Director of Revenue.

AN ACT to repeal sections 28.160 and 59.800, RSMo, and to enact in lieu thereof two new sections relating to certain state fund accounts.

SECTION

A. Enacting clause.

28.160. State entitled to certain fees — technology trust fund account established — additional fee, notary commissions — appropriation of funds, purpose — fees not collected, when.

59.800. Additional five-dollar fee imposed, when, distribution — fund established.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 28.160 and 59.800, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 28.160 and 59.800, to read as follows:

28.160. STATE ENTITLED TO CERTAIN FEES — TECHNOLOGY TRUST FUND ACCOUNT ESTABLISHED — ADDITIONAL FEE, NOTARY COMMISSIONS — APPROPRIATION OF FUNDS, PURPOSE — FEES NOT COLLECTED, WHEN. — 1. The state shall be entitled to fees for services to be rendered by the secretary of state as follows:

For issuing commission to notary public	\$15.00
For countersigning and sealing certificates of official character	10.00
For all other certificates	5.00
For copying archive and state library records, papers or documents, for each page 8 ½ x 14 inches and smaller, not more than	.10
For duplicating microfilm, for each roll	15.00
For copying all other records, papers or documents, for each page 8 ½ x 14 inches and smaller, not more than[.]	.10
For certifying copies of records and papers or documents	5.00
For causing service of process to be made	10.00
For electronic telephone transmittal, per page	2.00

2. There is hereby established the "Secretary of State's Technology Trust Fund Account" which shall be administered by the state treasurer. All yield, interest, income, increment, or gain received from time deposit of moneys in the state treasury to the credit of the secretary of state's technology trust fund account shall be credited by the state treasurer to the account. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of a biennium exceeds five million dollars. In any such biennium the amount in the fund in excess of five million dollars shall be transferred to general revenue.

3. The secretary of state may collect an additional fee of ten dollars for the issuance of new and renewal notary commissions which shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account.

4. The secretary of state may ask the general assembly to appropriate funds from the technology trust fund for the purposes of establishing, procuring, developing, modernizing and maintaining:

- (1) An electronic data processing system and programs capable of maintaining a centralized database of all registered voters in the state;
- (2) Library services offered to the citizens of this state;
- (3) Administrative rules services, equipment and functions;
- (4) Services, equipment and functions relating to securities;
- (5) Services, equipment and functions relating to corporations and business organizations;
- (6) Services, equipment and functions relating to the Uniform Commercial Code;
- (7) Services, equipment and functions relating to archives; and
- (8) Services, equipment and functions relating to record services.

5. Notwithstanding any provision of this section to the contrary, the secretary of state shall not collect fees, for processing apostilles, certifications and authentications prior to the placement of a child for adoption, in excess of one hundred dollars per child per adoption, or per multiple children to be adopted at the same time.

59.800. ADDITIONAL FIVE-DOLLAR FEE IMPOSED, WHEN, DISTRIBUTION — FUND ESTABLISHED. — 1. Beginning on July 1, 2001, notwithstanding any other condition precedent required by law to the recording of any instrument specified in subdivisions (1) and (2) of section 59.330, an additional fee of five dollars shall be charged and collected by every recorder of deeds in this state on each instrument recorded. The additional fee shall be distributed as follows:

(1) One dollar and twenty-five cents to the recorder's fund established pursuant to subsection 1 of section 59.319, provided, however, that all funds received pursuant to this section shall be used exclusively for the purchase, installation, upgrade and maintenance of modern technology necessary to operate the recorder's office in an efficient manner;

(2) One dollar and seventy-five cents to the county general revenue fund; and

(3) Two dollars to the fund established in subsection 2 of this section.

2. There is hereby established [in the state treasury] a revolving fund known as the "Statutory County Recorder's Fund", which shall receive funds paid to the recorders of deeds of the counties of this state pursuant to subdivision (3) of subsection 1 of this section. The [state treasurer] **director of the department of revenue** shall be custodian of the fund and shall make disbursements from the fund for the purpose of subsidizing the fees collected by counties that hereafter elect or have heretofore elected to separate the offices of clerk of the circuit court and recorder. The subsidy shall consist of the total amount of moneys collected pursuant to subdivisions (1) and (2) of subsection 1 of this section subtracted from fifty-five thousand dollars. The moneys paid to qualifying counties pursuant to this subsection shall be deposited in the county general revenue fund. For purposes of this section a "qualified county" is a county that hereafter elects or has heretofore elected to separate the offices of clerk of the circuit court and recorder and in which the office of the recorder of deeds collects less than fifty-five thousand dollars in fees pursuant to subdivisions (1) and (2) of subsection 1 of this section, on an annual basis. **Moneys in the statutory county recorder's fund shall not be considered state funds.**

[3. Any unexpended balance in the fund at the end of any biennium is exempt from the provisions of section 33.080, RSMo, relating to transfer of unexpended balances to the general revenue fund.]

Approved July 3, 2002

HB 1781 [HB 1781]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Extends the expiration date on the nursing facility reimbursement allowance to September 30, 2005.

AN ACT to repeal section 198.439, RSMo, and to enact in lieu thereof one new section relating to the nursing facility reimbursement allowance.

SECTION

A. Enacting clause.

198.439. Expiration date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 198.439, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 198.439, to read as follows:

198.439. EXPIRATIONDATE. — Sections 198.401 to 198.436 shall expire on September 30, [2002] **2005**.

Approved July 3, 2002

HB 1783 [SCS HB 1783]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the name of the Missouri Commission for the Deaf to the Missouri Commission for the Deaf and Hard of Hearing.

AN ACT to repeal sections 161.400, 161.403, 161.405, 161.407, 191.928, 191.934, 209.285, 209.287, 209.292, 209.318, 209.319, 209.321, 209.323, 209.326, 209.334, 476.750, 476.760 and 476.763, RSMo, and to enact in lieu thereof twenty new sections relating to the deaf and hard of hearing.

SECTION

- A. Enacting clause.
- 161.400. Commission for the deaf and hard of hearing created — appointment — qualifications — terms — expenses — chairperson — deaf members to be provided with interpreters, cost for, how paid.
- 161.403. Executive director — qualifications — compensation, office space, staff, to be provided by department.
- 161.405. Commission to function as agency of state — purpose — powers and duties.
- 161.407. Census of deaf population of state, purpose — census report content, filed when.
- 161.410. Missouri commission for the deaf and hard of hearing fund created in the state treasury, deposits and disbursements.
- 191.928. Surveillance and monitoring system for certain newborns — standards and follow-up procedure — confidentiality of information.
- 191.934. Newborn hearing screening advisory committee established, duties, members, compensation — committee to terminate, when.
- 209.285. Definitions.
- 209.287. Board for certification of interpreters established — appointment, qualification, terms — expenses — meetings — chairman elected how — quorum — removal from office, procedure.
- 209.292. Board's powers and duties — evaluation team to be appointed, qualifications, expenses — removal from team, procedure.
- 209.318. Fund for certification of interpreters established, purpose — lapse into general revenue when — first fiscal year, board's expenses, how paid.
- 209.319. State committee of interpreters to be established in division of professional registration, appointment, qualifications, terms, compensation — vacancies — quorum — meetings.
- 209.321. License required to practice interpreting — certain professions exempt — practice to be limited to training and education.
- 209.322. Certificates recognized by the board.
- 209.323. License application forms, content, oath, fee not refundable, qualifications, licenses expire, when — reinstatement procedure — replacement of license lost or destroyed.
- 209.326. Temporary license issued to persons licensed in other states, procedure, fee limitation.
- 209.334. Refusal to issue or renew license, grounds, complaint procedure — reinstatement procedure.
- 476.750. Definitions.
- 476.760. Privileged communications — commencement of proceedings, requirement — waiver of right, requirement — fees — payment.
- 476.763. Commission for the deaf and hard of hearing, list of qualified interpreters — compliance directives.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 161.400, 161.403, 161.405, 161.407, 191.928, 191.934, 209.285, 209.287, 209.292, 209.318, 209.319, 209.321, 209.323, 209.326,

209.334, 476.750, 476.760 and 476.763, RSMo, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 161.400, 161.403, 161.405, 161.407, 161.410, 191.928, 191.934, 209.285, 209.287, 209.292, 209.318, 209.319, 209.321, 209.322, 209.323, 209.326, 209.334, 476.750, 476.760 and 476.763, to read as follows:

161.400. COMMISSION FOR THE DEAF AND HARD OF HEARING CREATED — APPOINTMENT — QUALIFICATIONS — TERMS — EXPENSES — CHAIRPERSON — DEAF MEMBERS TO BE PROVIDED WITH INTERPRETERS, COST FOR, HOW PAID. — 1. As used in sections 161.400 to 161.405, the term "commission" means the Missouri commission for the deaf **and hard of hearing**.

2. There is hereby established within the department of elementary and secondary education a commission, to be known as the "Missouri Commission for the Deaf **and Hard of Hearing**", which shall be composed of nine members. Each member shall be appointed by the governor for a term of three years, except that, of the members first appointed, three shall be appointed for a term of three years, three for a term of two years and three for a term of one year. Of the members appointed, two shall be deaf **or hard of hearing**, one shall be a parent of a deaf **or hard of hearing** child, one shall be a representative of an organization representing the interests of the deaf or hard of hearing, one shall be a representative of the Missouri School for the Deaf or the department of elementary and secondary education, one shall be an interpreter for the deaf, one shall be a representative of the business community, one shall be a representative of local public school administration and one shall be a professional from one of the following fields: audiology, psychology, speech pathology, mental health or medicine. No person shall be eligible to serve more than two successive terms, except that a person appointed to fill a vacancy may serve two additional successive terms. The members shall receive no compensation for their services on the Missouri commission for the deaf **and hard of hearing**, but shall be reimbursed for ordinary and necessary expenses incurred in the performance of their duties. The provisions of this subsection shall not prevent any person serving on the commission on August 28, 1994, from completing the term for which that person was appointed.

3. A chairperson shall be selected by the commission from among its members. The commission shall meet at the call of the chairperson, but not less than four times per year. Professional interpreting services for the deaf members shall be provided for at every meeting of the commission, with the expense of the services to be borne by the commission.

161.403. EXECUTIVE DIRECTOR — QUALIFICATIONS — COMPENSATION, OFFICE SPACE, STAFF, TO BE PROVIDED BY DEPARTMENT. — 1. The commission shall appoint an executive director, who shall serve as an executive officer of the commission. As a priority, the director shall be a deaf **or hard of hearing** person or shall have a background and knowledge of deafness and shall be fluent in using and reading American sign language or signed English as a means of communication.

2. Salary, office space and staff for the executive director shall be provided by the department of elementary and secondary education.

161.405. COMMISSION TO FUNCTION AS AGENCY OF STATE — PURPOSE — POWERS AND DUTIES. — The commission shall function as an agency of the state to advocate public policies, regulations and programs to improve the quality and coordination of existing services for deaf **and hard of hearing** persons and to promote new services whenever necessary. The commission shall:

- (1) Promote deaf awareness to the general public and serve as a consultant to any public agency needing information regarding deafness;
 - (2) Develop a system of state certification for those individuals serving as interpreters of the deaf by:
 - (a) Conducting evaluations; and
-

- (b) Developing a fee scale for different classes of interpreters;
- (3) Maintain the quality of interpreting services by:
 - (a) Conducting interpreter training workshops to update knowledge and skills; and
 - (b) Working closely with the institutions of higher education which provide, or plan to provide, instructional programs for learning sign language;
- (4) Conduct and maintain a census of the deaf population in Missouri;
- (5) Promote the development of a plan which advocates the initiation of improved physical and mental health services for deaf Missourians;
- (6) Conduct or make available workshops or seminars as needed for educating nondeaf individuals of the problems associated with deafness and ways by which these groups or agencies can more effectively interact with those who are deaf;
- (7) Promote the development of services for deaf **and hard of hearing** adults, such as shelter homes, independent living skill training facilities and postschool educational training which will help provide for those deaf **and hard of hearing** individuals requiring such services an opportunity to live independently;
- (8) Establish a network for effective communication among the deaf adult community and promote the establishment of TDD relay services where needed;
- (9) Develop and establish interpreting services for state agencies.

161.407. CENSUS OF DEAF POPULATION OF STATE, PURPOSE — CENSUS REPORT CONTENT, FILED WHEN. — 1. In order to conduct and maintain a census of the deaf population in Missouri as mandated in section 161.405, the Missouri commission for the deaf **and hard of hearing** shall establish a census information system. The commission may also use the data collected by the census to determine needs of Missouri citizens who have a hearing loss.

2. Licensed professional clinical audiologists, licensed otolaryngologists, licensed hearing aid fitters and dealers or their designee shall inform all patients of the commission's purpose to maintain a census of the deaf population in Missouri and of the statutory requirement to file a report of deafness and hearing loss to the commission within one month of identification of such deafness or hearing loss.

3. To provide an accurate census of the deaf population in Missouri, the census report shall include the name of the patient, the patient's address, the patient's birth date, the type of hearing loss and, if known, the cause of the hearing loss being treated. The census report shall be on forms provided or approved by the commission. In order to protect identifying information, the commission shall assign a unique identifier for each report maintained in the census information system.

4. Nothing in sections 161.400 to 161.411 shall be construed to compel any individual to submit to any medical examination, treatment or supervision nor any examination, treatment or supervision by the commission of any kind.

161.410. MISSOURI COMMISSION FOR THE DEAF AND HARD OF HEARING FUND CREATED IN THE STATE TREASURY, DEPOSITS AND DISBURSEMENTS. — **1.** The executive director of the Missouri commission for the deaf and hard of hearing shall administer a revolving fund to be known as the "Missouri Commission for the Deaf and Hard of Hearing Fund" which is hereby established in the state treasury. The fund shall consist of appropriations made by the general assembly, any gifts, contributions, grants, or bequests received from federal, private, or other sources, and moneys transferred or paid to the commission in return for goods and services provided by the commission to any governmental entity or the public. The state treasurer shall approve all disbursements from the fund for the purchase of goods or services at the request of the executive director of the commission.

2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not revert to the credit of the general revenue fund, unless and then only to the extent to which the unencumbered balance at the end of any fiscal year exceeds

one-half of the total amount appropriated, paid, or transferred to the fund during such fiscal year.

191.928. SURVEILLANCE AND MONITORING SYSTEM FOR CERTAIN NEWBORNS — STANDARDS AND FOLLOW-UP PROCEDURE — CONFIDENTIALITY OF INFORMATION. — 1. The department of health and senior services shall establish and maintain a newborn hearing screening surveillance and monitoring system for newborns who have been reported with possible hearing loss for the purpose of confirming the presence or absence of hearing loss, and referring those with hearing loss for early intervention services.

2. The department of health and senior services shall establish standards and follow-up procedures for all newborns reported with possible hearing loss pursuant to the provisions of section 191.925, as necessary to assure appropriate and timely diagnosis of hearing loss, delivery of amplification, and referral for early intervention services. Such standards and procedures shall include:

- (1) Rescreening;
- (2) Diagnostic audiological assessment;
- (3) Individuals qualified to administer rescreening and diagnostic audiological assessment;
- (4) Time lines for administering rescreening and diagnostic pediatric audiological assessment; and
- (5) Time lines and content of contacts to be made by the surveillance and monitoring system.

3. The results of rescreening and diagnostic audiological assessment procedures shall be reported to the department of health and senior services in a manner prescribed by the department. Any person who acts in good faith in complying with this section in reporting rescreening or diagnostic audiological assessment procedures to the department of health and senior services, or the parents or guardians of a newborn shall not be civilly or criminally liable for furnishing the information required by this section.

4. Any newborn with a confirmed hearing loss in the surveillance and monitoring system shall be referred to the appropriate point of contact for the Part C of the Individuals with Disabilities Education Act (IDEA) system of early intervention services (First Steps) and shall be reported to the Missouri commission for the deaf **and hard of hearing** for census purposes.

5. Except as provided in this section, the information contained in the surveillance and monitoring system shall be confidential and shall not be divulged or made public in a manner that discloses the identity of an individual. The department of health and senior services may disclose and exchange such information as is necessary to provide follow-up services for newborns identified with hearing loss to the following persons without a parent's or guardian's written release:

- (1) Employees of public agencies, departments and political subdivisions who need to know such information to carry out their public duties; or
- (2) Health care professionals or their agents who undertake the pediatric care of the newborn.

If any person discloses such information for any other purposes, such person is guilty of an unauthorized release of confidential information and the person who discloses is liable for civil damages.

191.934. NEWBORN HEARING SCREENING ADVISORY COMMITTEE ESTABLISHED, DUTIES, MEMBERS, COMPENSATION — COMMITTEE TO TERMINATE, WHEN. — 1. There is hereby established a "Newborn Hearing Screening Advisory Committee".

2. The committee shall advise and assist the department of health and senior services in:

- (1) Developing rules, regulations and standards for screening, rescreening and diagnostic audiological assessment;

- (2) Developing forms for reporting screening, rescreening and diagnostic audiological assessment results to the surveillance and monitoring system;
- (3) Designing a technical assistance program to support facilities implementing the screening program and those conducting rescreening and diagnostic audiological assessment;
- (4) Developing educational materials to be provided to families; and
- (5) Evaluating program outcomes to increase effectiveness and efficiency.

The committee shall also report information concerning the newborn hearing screening program to the state interagency coordinating council, as requested, to ensure coordination of programs within the state's early intervention system, and to identify and eliminate areas of duplication.

3. The committee shall be composed of the following sixteen members, with no less than two such members being deaf or hard of hearing, appointed by the director of the department of health and senior services:

- (1) Three consumers, including one deaf individual who experienced hearing loss in early childhood, one hard-of-hearing individual who experienced hearing loss in early childhood and one parent of a child with a hearing loss;
- (2) Two audiologists who have experience in evaluation and intervention of infants and young children;
- (3) Two physicians who have experience in the care of infants and young children, one of which shall be a pediatrician;
- (4) One representative of an organization with experience in providing early intervention services for children with hearing loss;
- (5) One representative of the Missouri school for the deaf;
- (6) One representative of a hospital with experience in the care of newborns;
- (7) One representative of the Missouri commission for the deaf **and hard of hearing**;
- (8) One representative from each of the departments of health and senior services, elementary and secondary education, mental health, social services and insurance.

4. The department of health and senior services member shall chair the first meeting of the committee. At the first meeting, the committee shall elect a chairperson from its membership. The committee shall meet at the call of the chairperson, but not less than four times a year.

5. The department of health and senior services shall provide technical and administrative support services as required by the committee. Such services shall include technical support from individuals qualified to administer infant hearing screening, rescreening and diagnostic audiological assessments.

6. Members of the committee shall receive no compensation for their services as members but shall be reimbursed for expenses incurred as a result of their duties as members of the committee.

7. The committee shall adopt written bylaws to govern its activities.

8. The newborn hearing screening advisory committee shall be terminated on August 28, 2001.

209.285. DEFINITIONS. — As used in sections 209.285 to 209.339, unless the context clearly requires otherwise, the following terms mean:

- (1) "American sign language", a visual-gestural system of communication that has its own syntax, rhetoric and grammar. American sign language is recognized, accepted and used by many deaf Americans. This native language represents concepts rather than words;
- (2) "Board", the Missouri board for certification of interpreters, established within the commission in section 209.287;
- (3) "Certification", a document issued by the Missouri commission for the deaf **and hard of hearing** declaring that the holder is qualified to practice interpreting at a disclosed level;
- (4) "Commission", the Missouri commission for the deaf **and hard of hearing**;

(5) "Committee", the Missouri state committee of interpreters, established in section 209.319;

(6) "Conversion levels", the process of granting levels of certification by the commission to individuals holding certification from another state or within another certification system in this state or another state;

(7) "Coordinator", a staff person, hired by the executive director of the Missouri commission for the deaf **and hard of hearing**, who shall serve as coordinator for the Missouri interpreter certification system;

(8) "Deaf person", any person who is not able to discriminate speech when spoken in a normal conversational tone regardless of the use of amplification devices;

(9) "Department", the Missouri department of economic development;

(10) "Director", the director of the division of professional registration in the department of economic development;

(11) "Division", the division of professional registration;

(12) "Executive director", the executive director of the Missouri commission for the deaf **and hard of hearing**;

(13) "Interpreter", any person who offers to render interpreting services implying that he **or she** is trained, and experienced in interpreting, and holds a current, valid certification and license to practice interpreting in this state; provided that a telecommunications operator providing deaf relay service or a person providing operator services for the deaf shall not be considered to be an interpreter;

(14) "Interpreter trainer", a person, certified and licensed by the state of Missouri as an interpreter, who trains new interpreters in the translating of spoken English or written concepts to any necessary specialized vocabulary used by a deaf consumer. Necessary specialized vocabularies include, but are not limited to, American sign language, Pidgin Signed English, oral, tactile sign and language deficient skills;

(15) "Interpreting", the translating of English spoken or written concepts to any necessary specialized vocabulary used by a deaf person or the translating of a deaf person's specialized vocabulary to English spoken or written concepts; provided that a telecommunications operator providing deaf relay service or a person providing operator services for the deaf shall not be considered to be interpreting. Necessary specialized vocabularies include, but are not limited to, American sign language, Pidgin Signed English, oral, tactile sign and language deficient skills;

(16) "Language deficient", mode of communication used by deaf individuals who lack crucial language components, including, but not limited to, vocabulary, language concepts, expressive skills, language skills and receptive skills;

(17) "Missouri commission for the deaf", Missouri commission for the deaf **and hard of hearing** established in section 161.400;

(18) "Oral", mode of communication having characteristics of speech, speech reading and residual hearing as a primary means of communication using situational and culturally appropriate gestures, without the use of sign language;

(19) "Pidgin Signed English", a mode of communication having characteristics of American sign language;

(20) "Practice of interpreting", rendering or offering to render or supervise those who render to individuals, couples, groups, organizations, institutions, corporations, schools, government agencies or the general public any interpreting service involving the translation of any mode of communication used by a deaf person to spoken English or of spoken English to a mode of communication used by a deaf person;

(21) "Tactile sign", mode of communication, used by deaf and blind individuals, using any one or a combination of the following: tactile sign, constricted space sign or notetaking.

209.287. BOARD FOR CERTIFICATION OF INTERPRETERS ESTABLISHED — APPOINTMENT, QUALIFICATION, TERMS — EXPENSES — MEETINGS — CHAIRMAN ELECTED HOW — QUORUM — REMOVAL FROM OFFICE, PROCEDURE. — 1. There is hereby established within the Missouri commission for the deaf **and hard of hearing** a board to be known as the "Board for Certification of Interpreters", which shall be composed of five members. The executive director of the Missouri commission for the deaf **and hard of hearing** or [his] **the director's** designee shall be a nonvoting member of the board.

2. The members shall be appointed by the governor with the advice and consent of the senate from a list of recommendations from the commission. The members shall be appointed for terms of three years, except those first appointed whose terms shall be staggered and one member appointed to serve for one year, two members to serve for two years and two members to serve for three years. No member shall be eligible to serve more than two consecutive terms, except a person appointed to fill a vacancy for a partial term may serve two additional terms. Two of the members appointed shall be deaf, two shall be certified interpreters and one shall be deaf or a certified interpreter. The members shall be fluent in American sign language, Pidgin Signed English, oral, tactile sign, or any specialized vocabulary used by deaf persons. The member shall have a background and knowledge of interpreting and evaluation.

3. The members shall receive no compensation for their services on the board, but the commission shall reimburse the members for actual and necessary expenses incurred in the performance of their official duties. The board shall meet not less than two times per year. The board shall elect from its membership a chairperson and a secretary. A quorum of the board shall consist of three of its members.

4. Any member of the commission may petition the governor to remove a member from the board for the following reasons: misconduct, inefficiency, incompetence or neglect of his official duties. The governor may remove the member after giving the committee member written notice of the charges against him and an opportunity to be heard pursuant to administrative procedures in chapter 621, RSMo.

209.292. BOARD'S POWERS AND DUTIES — EVALUATION TEAM TO BE APPOINTED, QUALIFICATIONS, EXPENSES — REMOVAL FROM TEAM, PROCEDURE. — 1. The board shall, with the approval of the commission:

(1) Prescribe qualifications for each of the several levels of certification based on proficiency and shall evaluate and certify interpreters using such qualifications;

(2) Issue the certificates, bearing the signature of the executive director, necessary to qualify for a license to interpret;

(3) Develop a fee scale for interpreting services, pursuant to section 161.405, RSMo;

(4) Maintain the quality of interpreting services, pursuant to section 161.405, RSMo, by:

(a) Generating ideas for conducting interpreter training workshops to update knowledge and skills; and

(b) Suggesting institutions of higher education to provide interpreter training programs;

(5) Develop specific guidelines for the use of interpreters according to their level of certification and submit the guidelines to the division and copies to be distributed to state departments, agencies, commissions, courts, interpreters and to the public;

(6) Develop ethical rules of conduct to be recommended for adoption by the division;

(7) Develop fees for application, administration of an evaluation, conversion and certificate renewal, to cover the cost of the certification system and administration;

(8) Compile a statewide registry of interpreters by skill level and include recommendations relating to the appropriate selection and utilization of interpreters for the deaf. The registry shall be made available to and recommended for adoption by state commissions, departments and agencies;

(9) Develop a conversion system and policy for accepting other certification systems into the certification offered by the Missouri commission for the deaf **and hard of hearing**;

- (10) Develop acceptable professional development activities to maintain certification;
 - (11) Investigate and implement the most appropriate testing model for interpreter certification;
 - (12) When necessary, develop an evaluation team, appointed by the commission, to assist in evaluating interpreters;
 - (13) Provide opportunity to hear grievances against the certification process or one of its members using the guidelines established in chapter 621, RSMo.
2. An evaluation team appointed pursuant to subdivision (12) of subsection 1 of this section shall have similar backgrounds to the members of the board. The evaluation team shall serve at the pleasure of the commission. [The evaluation team shall serve without compensation but] The commission shall reimburse [them] **evaluators** for actual and necessary expenses incurred in the performance of their official duties **and may fairly compensate them**. A member of an evaluation team may be removed from the team by the executive director, after notice and an opportunity to be heard, for the following reasons: misconduct, inefficiency, incompetence or neglect of official duties.

209.318. FUND FOR CERTIFICATION OF INTERPRETERS ESTABLISHED, PURPOSE — LAPSE INTO GENERAL REVENUE WHEN — FIRST FISCAL YEAR, BOARD'S EXPENSES, HOW PAID. — 1. There is hereby established in the state treasury a fund to be known as the "Missouri Commission for the Deaf **and Hard of Hearing** Board of Certification of Interpreters Fund". All fees provided for in sections 209.287 to 209.318 shall be collected by the executive director of the commission and shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the Missouri commission for the deaf **and hard of hearing** board of certification of interpreters fund. Such funds, upon appropriation, shall be disbursed only for payment of expenses of maintaining the board and for the enforcement of the provisions of sections 209.287 to 209.318 and shall not be used to pay the salary of the coordinator hired pursuant to section 209.289. Warrants shall be drawn on the state treasury for payment out of the fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the fund for the preceding fiscal year.

3. The expenses of maintaining the board enforcement of the provisions of sections 209.287 to 209.318 during the first fiscal year shall be paid by the commission from funds appropriated from general revenue for that purpose.

209.319. STATE COMMITTEE OF INTERPRETERS TO BE ESTABLISHED IN DIVISION OF PROFESSIONAL REGISTRATION, APPOINTMENT, QUALIFICATIONS, TERMS, COMPENSATION — VACANCIES — QUORUM — MEETINGS. — 1. There is hereby established in the division of professional registration the "Missouri State Committee of Interpreters", which shall consist of seven members, including two public members. At least one of the public members shall be deaf. The committee members shall be appointed by the governor with the advice and consent of the senate. Each member of the committee shall be a citizen of the United States and a resident of this state and, except as provided in subsections 2 and 3 of this section, shall be licensed as an interpreter by this state.

2. The initial interpreter appointments made to the committee shall be made from interpreters who have voluntarily registered with the Missouri commission for the deaf **and hard of hearing**. In making the initial appointments to the committee, the governor shall stagger the terms of the appointees so that two members serve initial terms of two years, two members serve

initial terms of three years, two members serve initial terms of four years and one member serves an initial term of one year.

3. At the time of appointment the public members shall be United States citizens, Missouri residents for a period of one year, registered voters, persons who are not and never were members of any profession licensed or regulated pursuant to sections 209.285 to 209.339, persons who do not have and never have had a material financial interest in providing interpreting services or persons who do not have and never have had a financial interest in an activity or organization directly related to interpreting.

4. Members shall be appointed to serve four-year terms. No person shall be eligible for reappointment who has served as a member of the committee for eight or more years. The membership of the committee shall reflect the differences in levels of certification, work experience and education. Not more than two interpreter educators shall be members of the committee at the same time.

5. A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term. The governor may remove a committee member for misconduct, inefficiency, incompetence or neglect of his or her official duties after giving the committee member written notice of the charges against the committee member and an opportunity to be heard.

6. Each member of the committee shall receive as compensation an amount set by the committee not to exceed fifty dollars for each day devoted to the affairs of the committee and shall be reimbursed for necessary and actual expenses incurred in the performance of his or her official duties.

7. The committee shall hold an annual meeting at which it shall elect from its membership a chairperson and a secretary. The committee may hold such additional meetings as may be required in the performance of its duties. A quorum of the committee shall consist of four of its members.

8. The staff for the committee shall be provided by the director of the division of professional registration.

9. The committee may sue and be sued in its official name and shall have a seal which shall be affixed to all certified copies of records and papers on file and to such other instruments as the committee may direct. All courts shall take judicial notice of such seal. Copies of records and proceedings of the committee and of all papers on file with the division on behalf of the committee certified under the seal shall be received as evidence in all courts of record.

209.321. LICENSE REQUIRED TO PRACTICE INTERPRETING — CERTAIN PROFESSIONS EXEMPT — PRACTICE TO BE LIMITED TO TRAINING AND EDUCATION. — 1. No person shall represent himself **or herself** as an interpreter or engage in the practice of interpreting as defined in section 209.285 in the state of Missouri unless [he] **such person** is licensed as required by the provisions of sections 209.319 to 209.339.

2. A person registered, certified or licensed by this state, another state or any recognized national certification agent, acceptable to the committee that allows that person to practice any other occupation or profession in this state, is not considered to be interpreting if he **or she** is in performance of the occupation or profession for which he **or she** is registered, certified or licensed. The professions referred to in this subsection include, but are not limited to, physicians, psychologists, nurses, certified public accountants, architects and attorneys.

3. A licensed interpreter shall limit his **or her** practice to demonstrated areas of competence as documented by relevant professional education, training, experience and certification. An interpreter not trained in an area shall not practice in that area without obtaining additional relevant professional education, training and experience through an acceptable program as defined by rule by the Missouri commission for the deaf **and hard of hearing**.

4. A person is not considered to be interpreting pursuant to the provisions of this section if, in a casual setting and as defined by rule, a person is acting as an interpreter gratuitously or is engaged in interpreting incidental to traveling.

5. A person is not considered to be interpreting pursuant to the provisions of this section if a person is engaged as a telecommunications operator providing deaf relay service or operator services for the deaf.

209.322. CERTIFICATES RECOGNIZED BY THE BOARD. — The board shall recognize the following certificates:

(1) **National Registry of Interpreters for the Deaf (NRID) certificates, which include Comprehensive Skills Certificate (CSC), Certificate of Interpreting/Certificate of Transliteration (CI/CT) and Certified Deaf Interpreter (CDI); and**

(2) **National Association of the Deaf (NAD) certificate levels 3, 4 and 5.**

209.323. LICENSE APPLICATION FORMS, CONTENT, OATH, FEE NOT REFUNDABLE, QUALIFICATIONS, LICENSES EXPIRE, WHEN — REINSTATEMENT PROCEDURE — REPLACEMENT OF LICENSE LOST OR DESTROYED. — 1. Applications for licensure as an interpreter shall be submitted to the division on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing [his] the applicant's education, certification by either the **National Registry of Interpreters for the Deaf, National Association of the Deaf or Missouri Interpreter Certification System** and such other information as the division may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained in the application is true and correct to the best knowledge and belief of the applicant, subject to the penalties, as provided in sections 209.319 to 209.339, for the making of a false affidavit or declaration. Each application shall be accompanied by the required application fee. The application fee must be submitted in a manner as required by the committee and shall not be refundable. The applicant must be eighteen years of age or older. [Within a length of time established by rule, the applicant must submit to the committee, verification from the Missouri commission for the deaf that the applicant has achieved the appropriate certification to qualify for licensure.]

2. Each license issued pursuant to the provisions of sections 209.319 to 209.339 shall expire on the renewal date. The division shall mail a renewal notice to the last known address of each licensee prior to the registration renewal date. The license will expire upon failure to provide the division with the information required for registration or to pay the required registration fee within sixty days of the registration renewal date. The license may be reinstated within two years after the registration date, if the applicant applies for reinstatement and pays the required registration fee plus a delinquency fee as established by the committee.

3. Except as provided in section 209.321, the committee with assistance from the division shall issue or renew a license to each person who files an application and fee as required by the provisions of sections 209.319 to 209.339 and who furnishes satisfactory evidence to the committee that he has complied with the provisions of subsection 1 or 2 of this section.

4. The committee may issue a new license to replace any license which is lost, destroyed or mutilated upon payment of a fee as provided by the committee.

209.326. TEMPORARY LICENSE ISSUED TO PERSONS LICENSED IN OTHER STATES, PROCEDURE, FEE LIMITATION. — Any person who holds a valid unrevoked and unexpired license or certification as an interpreter issued by a state or organization other than this state and recognized by the committee and concurrently by the Missouri commission for the deaf **and hard of hearing** and, provided for by rule, may be granted a temporary license by the committee to practice interpreting in this state. The application for a temporary license must be accompanied by the appropriate fee as established by the committee and that fee is nonrefundable. If issued, the temporary license is valid for ninety days. A temporary license may

not be issued to the same individual more than once per year. The committee may not issue more than one temporary license to an individual who has established residency in this state during [his] **the individual's** residency.

209.334. REFUSAL TO ISSUE OR RENEW LICENSE, GROUNDS, COMPLAINT PROCEDURE — REINSTATEMENT PROCEDURE. — 1. The committee may refuse to issue or renew any license required by the provisions of sections 209.319 to 209.339 for one or any combination of causes stated in subsection 2 of this section. The committee shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his **or her** right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 209.319 to 209.339 or any person who has failed to renew or has surrendered his license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to engage in the occupation of interpreting;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of an interpreter, for any offense an essential element of which is fraud, dishonesty or an act of violence, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of sections 209.319 to 209.339 or in obtaining permission to take any examination given or required pursuant to the provisions of sections 209.319 to 209.339;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of interpreting;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 209.319 to 209.339, or of any lawful rule or regulation adopted pursuant to sections 209.319 to 209.339;

(7) Impersonation of any person holding a license or allowing any person to use his or her license or certification;

(8) Discipline of a license or other right to practice interpreting granted by another state, territory, federal agency or country upon grounds for which discipline is authorized in this state;

(9) Discipline of a certification issued by the Missouri commission for the deaf **and hard of hearing** or any other certifying body upon grounds for which discipline is authorized in this state if the licensee was given notice and an opportunity to be heard before the certification was disciplined;

(10) A person is finally adjudged incapacitated by a court of competent jurisdiction;

(11) Assisting or enabling any person to practice or offer to practice interpreting who is not licensed and currently eligible to practice under the provisions of sections 209.319 to 209.339;

(12) Issuance of a license based upon a material mistake of fact;

(13) Violation of any professional trust or confidence;

(14) Failure to display or present a valid license if so required by sections 209.319 to 209.339 or any rule promulgated pursuant thereto.

3. Any person, organization, association or corporation who reports or provides information to the committee pursuant to the provisions of sections 209.319 to 209.339 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission

that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the committee may singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the committee deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license.

5. In any order of revocation, the committee may provide that the person may not apply for reinstatement of his license for three years after the revocation.

6. Before restoring to good standing a license issued pursuant to sections 209.319 to 209.339 which has been revoked, suspended or inactive for any cause, the committee shall require the applicant to submit to the committee, verification, from the Missouri commission for the deaf that the applicant has a current certification which qualifies that person for licensure.

476.750. DEFINITIONS. — As used in sections 476.750 to 476.766, the following terms mean:

(1) "Auxiliary aids and services", the device or service that the deaf person feels would best serve him **or her** which includes, but is not limited to, qualified interpreters, notetakers, transcription services, written materials, assistive listening devices, assistive listening systems, closed caption decoders, open and closed captioning, videotext displays or other effective method of making aurally delivered materials available to individuals with hearing loss as defined by the American with Disabilities Act of 1990, P.L. 101-336, as amended;

(2) "Deaf person", any person who, because of a hearing loss, is not able to discriminate speech when spoken in a normal conversational tone regardless of the use of amplification devices;

(3) "Designated responsible authority", the presiding officer, chairman, hearing officer, judge, clerk or similar official in any court, board, commission, department, agency or legislative body or the designated Americans with Disabilities Act coordinator who is responsible for providing auxiliary aids and services;

(4) "Primary consideration", when an auxiliary aid or service is required, the designated responsible authority shall when possible provide an opportunity for the qualified individual with a disability to designate the auxiliary aid or service of his or her choice. The designated responsible authority may honor the choice of the qualified individual with a disability, unless the designated responsible authority provides an equally effective auxiliary aid or service, or that use of the means chosen would result in a fundamental alteration in the service, program or activity or in undue financial or administrative burdens;

(5) "Qualified interpreter", an interpreter certified and licensed by the Missouri interpreter certification system or deemed competent by the Missouri commission for the deaf **and hard of hearing**, who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary.

476.760. PRIVILEGED COMMUNICATIONS — COMMENCEMENT OF PROCEEDINGS, REQUIREMENT — WAIVER OF RIGHT, REQUIREMENT — FEES — PAYMENT. — 1. All communications between a deaf person and such person's attorney through the use of auxiliary aids and services shall be protected as privileged communications in the same manner as communications between an attorney and such attorney's hearing client. The auxiliary aids and services provider cannot be compelled to testify as to the information retained.

2. In any action or proceeding in which an auxiliary aids and services provider is required to be appointed, the court or administrative authority may not commence proceedings until the appointed auxiliary aids and services provider are in full view or spatially situated to assure proper communication with the deaf person or persons involved as participants.

3. No waiver of the right to auxiliary aids and services by a deaf person shall be valid unless that deaf person knowingly and voluntarily signs a written waiver. Such waiver is subject to the approval of counsel to the deaf person. If no counsel is used, then it is subject to the approval of the designated responsible authority. In no event is the failure of the deaf person to

request a qualified interpreter and auxiliary aids and services provider deemed a waiver of that right.

4. An auxiliary aids and services provider appointed pursuant to sections 476.750 to 476.766 is entitled to a reasonable fee for such provider's service, including waiting time, necessary travel expenses and subsistence expenses. The fee may be based on a fee schedule for interpreters and auxiliary aids and services recommended by the Missouri commission for the deaf **and hard of hearing**. Reimbursements for necessary travel and subsistence expenses shall be at the rates provided by law for state employees.

5. The fees and expenses of providers of auxiliary aids and services who serve before any civil court or criminal, civil or juvenile proceeding are payable from funds appropriated to the office of the state courts administrator.

6. At no time shall any deaf person involved in a proceeding or action as provided for in sections 476.750 to 476.766 assume any portion of the cost for an interpreter or auxiliary aids and services nor shall the court, board, commission, department, agency or legislative body assess the cost for an interpreter or auxiliary aids and services to the cost of such proceedings.

476.763. COMMISSION FOR THE DEAF AND HARD OF HEARING, LIST OF QUALIFIED INTERPRETERS — COMPLIANCE DIRECTIVES. — 1. Whenever a designated responsible authority is required to provide auxiliary aids and services, the authority shall request from the Missouri commission for the deaf **and hard of hearing** a current list of qualified interpreters or other auxiliary aids and services. If the choice of a qualified interpreter or other auxiliary aids and services does not meet the needs of, or adequately accommodate, the deaf person, the designated responsible authority may appoint another qualified interpreter or auxiliary aids and services.

2. The Missouri commission for the deaf **and hard of hearing** shall, in cooperation with the Missouri Assistive Technology Advisory Council, when appropriate, issue compliance directives for designated responsible authorities regarding the standards which should be followed, along with the resources available to comply with sections 476.750 to 476.766.

Approved July 2, 2002

HB 1811 [SCS HB 1811]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the Governor to convey property known as the Hubert Wheeler State School in St. Louis.

AN ACT to authorize the governor to convey certain described property.

SECTION

1. Conveyance of Hubert Wheeler State School by the state for public sale.
2. Conveyance of property owned by state in Cole County to the General Services Administration or the Missouri Development Finance Board.
3. Conveyance by the state of the Western Missouri Mental Health Center to the Children's Mercy Hospital.
4. Conveyance by the state of property in Lee's Summit to original owners of the property.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION 1. CONVEYANCE OF HUBERT WHEELER STATE SCHOOL BY THE STATE FOR PUBLIC SALE. — 1. The governor is hereby authorized and empowered to sell, transfer, grant and convey all interest in property owned by the state in the City of St. Louis which has been known as the Hubert Wheeler State School. The property is more particularly described as:

Lots 29,30,31,32,33 and part of Lots 27 and 28 in Block 2 of CHELTENHAM, Lots 21,22,23 and part of Lot 20 of WIBLE'S EASTERN ADDITION to CHELTENHAM, together with the Western 36 feet of former January Avenue vacated under the provisions of Ordinance No.52058, and in Blocks 4022 and 4023 of the City of St. Louis, more particularly described as follows: Beginning at a point in the North line of Wilson Avenue, 40 feet wide, at its intersection with a line 36 feet East of and parallel to the West line of former January Avenue, 60 feet wide, as vacated under the provisions of Ordinance No. 52058; thence North 82 degrees 57 minutes 15 seconds West along said North line of Wilson Avenue a distance of 355.20 feet to a point; thence North 8 degrees 15 minutes 30 seconds East a distance of 472.56 feet to a point in the Southerly Right-of-Way line of Interstate Highway I-44; thence in an Easterly direction along said Right-of-Way line North 87 degrees 03 minutes 45 seconds East a distance of 25.59 feet to an angle point being located in the Eastern line of Lot 20 of Wible's Eastern Addition to Cheltenham, said point being 477 feet North along the Eastern line of said Wible's Addition from the Northern line of Wilson Avenue, 40 feet wide; thence South 87 degrees 53 minutes 03 seconds East and along said I-44 Right-of-Way line 295.71 feet to a point in the West line of said former January Avenue vacated as aforesaid at a point being 502.42 feet North along said line from the Northern line of Wilson Avenue; thence North 74 degrees 42 minutes 01 seconds East along the South Right-of-Way line of I-44 a distance of 39.27 feet to a point in a line 36 feet East of and parallel to said West line of former January Avenue, vacated as aforesaid; thence South 8 degrees 15 minutes 30 seconds West along said line 36 feet East of the West line of former January Avenue, vacated as aforesaid, a distance of 517.36 feet to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the public sale of the property, as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required; the time, place and terms of the sale; whether a minimum bid shall be required; and whether to utilize a public auctioneer or licensed real estate broker to market the property. Any auctioneer or broker employed to market the property shall receive the customary fee. All costs and fees, directly related to such sale, shall be paid from the proceeds of such sale.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 2. CONVEYANCE OF PROPERTY OWNED BY STATE IN COLE COUNTY TO THE GENERAL SERVICES ADMINISTRATION OR THE MISSOURI DEVELOPMENT FINANCE BOARD.

— 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in the County of Cole to the General Services Administration or to the Missouri Development Finance Board. The property to be conveyed is more particularly described as follows:

All of Inlots 187 and 188; All of Inlots 191 thru 200 inclusive; All of Inlots 225 thru 229; All that part of the Hough Street Right-of-way (previously vacated by Jefferson City Ordinance No. 3256); All that part of the Marshall Street Right-of-way lying north of the northerly line of State Street and south of the Missouri Pacific Railroad; All that part of the Lafayette Street Right-of-way (previously vacated by Jefferson City ordinance no. 3256); All that part of a 20 foot wide public alley lying between Marshall Street and Lafayette Street (previously vacated by Jefferson City Ordinance No. 3256); All that part of a 20 foot wide public alley, lying east of the easterly line of Inlots 185 and 190 and west of the westerly line of the Marshall Street Right-of-way; any part of Fractional Section 8,

lying south of the Missouri Pacific Railroad and north of Inlots 187 & 188, any part of Fractional Section 8, lying south of the Missouri Pacific Railroad and north of Inlots 225 thru 229 inclusive; according to the plat of the City of Jefferson, Missouri and according to the Government Land Office Plat of Township 44 North, Range 11 West, dated December 6, 1861. All of the aforesaid lies within Fractional Section 8 of said Township 44 North, Range 11 West, and within the Corporate Limits of the City of Jefferson, Cole County, Missouri, more particularly described as follows:

BEGINNING at the southwesterly corner of Inlot 191; thence N42 18'12"E, along the westerly line of said Inlot 191 and along the northerly extension thereof, 218.46 feet to a point intersecting the northerly line of a 20 foot wide alley at the southwest corner of Inlot 186; thence S47 41'48"E, along the northerly line of said alley, 69.58 feet to the southwesterly corner of Inlot 187; thence N42 18'12"E, along the westerly line of said Inlot 187 and the northerly extension thereof, 259.20 feet; thence S68 13'57"E, 766.53 feet to a point intersecting the easterly line of the aforesaid vacated Lafayette Street Right-of-way; thence S42 15'04"W, along the easterly line of said vacated Lafayette Street Right-of-way, 746.58 feet to a point intersecting the northerly line of the State Street Right-of-way (formerly Water Street); thence N47 42'13"W, along the northerly line of said State Street Right-of-way, 539.62 feet to a point in the center of the Marshall Street Right-of-way; thence N47 40'29"W, along the northerly line of said State Street Right-of-way, 248.46 feet to the POINT OF BEGINNING.

2. Consideration for the conveyance shall be the transfer of property of like value to the state of Missouri.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 3. CONVEYANCE BY THE STATE OF THE WESTERN MISSOURI MENTAL HEALTH CENTER TO THE CHILDREN'S MERCY HOSPITAL. — 1. The governor is hereby authorized to remise, release, and forever quitclaim all right, title, and interest to the real estate on Hospital Hill in Kansas City, Missouri, currently operated as the Western Missouri Mental Health Center, and more particularly described as follows, to the Children's Mercy Hospital:

Tract 1:

The East 200 feet of Lot 21, except that part in the Kansas City Terminal Railway Company right of way, and the East 200 feet of Lots 22, 23, 24, and 25, COLONEL E.M. McGEE'S SUBDIVISION, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof together with so much of the West one-half of the vacated alley adjacent thereto on the East as lies North of the Westerly prolongation of the North line of 22nd Street.

Tract 2:

All that part of Lots 34 and 35 and of the South 118 feet of Lot 36 that lies West of the West line of Holmes Street, COLONEL E.M. McGEE'S SUBDIVISION, and Lots 50, 51, 52, 53, 54, 55, and 56, HOME PARK, subdivisions in Kansas City, Jackson County, Missouri, according to the recorded plats thereof, together with the East one-half of the vacated alley lying West of and adjoining the aforesaid premises.

Tract 3:

The East 125 feet of the South 90.8 feet of Lot 26, the East 125 feet of Lot 27, and the East 125 feet of the North 142.1 feet of Lot 28, COLONEL E.M. McGEE'S SUBDIVISION, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

Together with all buildings and improvements thereon.

2. If some of the property is conveyed to, or subjected to temporary or permanent easements for the benefit of, the City of Kansas City for purposes of widening the existing

22nd Street right-of-way, the conveyance document shall adjust the legal description accordingly.

3. Consideration for the conveyance shall be the sum of one million five hundred thousand dollars whether or not some of property has been conveyed to, or subject to temporary or permanent easements for the benefit of, the City of Kansas City for purposes of widening the existing 22nd Street right-of-way. Proceeds of the sale shall be deposited to the state's general fund, provisions of Section 630.330, RSMo, to the contrary notwithstanding.

4. The attorney general shall approve the instrument of conveyance.

SECTION 4. CONVEYANCE BY THE STATE OF PROPERTY IN LEE'S SUMMIT TO ORIGINAL OWNERS OF THE PROPERTY. — 1. The governor is hereby authorized to remise, release and forever quit claim all right, title and interest to the following described real estate in Lee's Summit, Missouri to Robert D. McCubbin and Ethel A. McCubbin, husband and wife, the original owners of the property in consideration for the price of thirty-one thousand five hundred dollars. The property to be conveyed is particularly described as follows:

The East 116 feet of Lot 11, Frehling Orchard Acres, a subdivision in Independence, Jackson County, Missouri, except Right-of-way conveyed to the City of Independence on March 12, 1981, and recorded as document no. 1457242, subject to easement reserved for ingress and egress to grantor's adjoining property, reserved across the South Forty (40) feet of the conveyed parcel.

2. The attorney general shall approve the instrument of conveyance.

Approved June 28, 2002

HB 1812 [HB 1812]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the uses of the moneys in the Health Document Services Fund.

AN ACT to repeal section 192.323, RSMo, and to enact in lieu thereof one new section relating to the health document services fund.

SECTION

A. Enacting clause.

192.323. Department of health and senior services document services fund created — funding by certain fees — purpose — amount from fund exempt from lapse into general revenue.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 192.323, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 192.323, to read as follows:

192.323. DEPARTMENT OF HEALTH AND SENIOR SERVICES DOCUMENT SERVICES FUND CREATED — FUNDING BY CERTAIN FEES — PURPOSE — AMOUNT FROM FUND EXEMPT FROM LAPSE INTO GENERAL REVENUE. — 1. The "Department of Health and Senior Services Document Services Fund" is hereby created. All funds received by the department of health and senior services from the fees charged for reports, studies, records and other publications and

documents including data tapes and audiovisual products produced or reproduced by the department shall be credited to the fund. The director of the department shall administer the fund. The state treasurer is the custodian of the fund and shall approve disbursements from the fund requested by the director of the department. When appropriated by the general assembly, moneys from the fund shall be used to [purchase goods or services that will ultimately be used for the following purposes only] **pay costs, including personnel costs, as follows:**

(1) **To pay costs associated with the collection, processing, storage, and access to documents and data;**

(2) To produce publications or other documents including data tapes and audiovisual products requested by governmental agencies or members of the general public;

[(2)] (3) To publish the publications or other documents or to purchase reports, publications or other documents including data tapes and audiovisual products for reproduction; and

[(3)] (4) To pay shipping charges.

2. An unexpended balance in the fund at the end of the fiscal year not exceeding fifty thousand dollars is exempt from the provisions of section 33.080, RSMo, relating to the transfer of unexpended balances to the general revenue fund.

Approved July 3, 2002

HB 1814 [HB 1814]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various provisions regarding the filing of orders of protection, including prohibiting the assessment of filing fees, court costs, or bond for orders of protection.

AN ACT to repeal sections 455.027, 455.060, 455.067, 455.075, 455.504, 455.508, and 488.610, RSMo, and to enact in lieu thereof six new sections relating to orders of protection.

SECTION

- A. Enacting clause.
- 455.027. No filing fee, court cost, or bond shall be required.
- 455.060. Modification of orders, when — termination — appeal — custody of children, may not be changed, when.
- 455.067. Foreign order of protection to be given full faith and credit — registration of order, content, procedure.
- 455.075. Costs of attorney's fees.
- 455.504. Court clerks to furnish petitioner with uniform forms and information to litigants having no counsel on procedure, filing forms and pleadings — services of clerks and location of office to file petition to be posted — rules — no fees required — guardian ad litem or CASA to be provided copy of petition.
- 488.610. Victim of domestic violence not to pay costs.
- 455.508. Duties of circuit clerks — rules, forms, instructions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 455.027, 455.060, 455.067, 455.075, 455.504, 455.508, and 488.610, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 455.027, 455.060, 455.067, 455.075, 455.504, and 488.610, to read as follows:

455.027. NO FILING FEE, COURT COST, OR BOND SHALL BE REQUIRED. — [1. No advance filing fees or bond shall be required for filing a petition in an action commenced under sections 455.010 to 455.085.

2. The clerk shall advise the petitioner of his right to file a financial statement indicating the petitioner's income and liabilities. This information may be required by the court and shall be considered before assessment of court costs.

3. Assessment of court costs or a determination of indigency shall be considered by the court at the time of a termination of the proceeding.] **No filing fees, court costs, or bond shall be assessed in an action commenced pursuant to sections 455.010 to 455.085.**

455.060. MODIFICATION OF ORDERS, WHEN — TERMINATION — APPEAL — CUSTODY OF CHILDREN, MAY NOT BE CHANGED, WHEN. — 1. After notice and hearing, the court may modify an order of protection at any time, upon subsequent motion filed by the guardian ad litem, the court-appointed special advocate or by either party together with an affidavit showing a change in circumstances sufficient to warrant the modification. All full orders of protection shall be final orders and appealable and shall be for a fixed period of time as provided in section 455.040.

2. Any order for child support, custody, temporary custody, visitation or maintenance entered under sections 455.010 to 455.085 shall terminate prior to the time fixed in the order upon the issuance of a subsequent order pursuant to chapter 452, RSMo, or any other Missouri statute.

3. No order entered pursuant to sections 455.010 to 455.085 shall be res judicata to any subsequent proceeding, including, but not limited to, any action brought under chapter 452, RSMo, 1978 as amended.

4. All provisions of an order of protection shall terminate upon entry of a decree of dissolution of marriage or legal separation except as to those provisions which require the respondent to participate in a court-approved counseling program or enjoin the respondent from abusing, molesting, stalking or disturbing the peace of the petitioner and which enjoin the respondent from entering the premises of the dwelling unit of the petitioner as described in the order of protection when the petitioner continues to reside in that dwelling unit unless the respondent is awarded possession of the dwelling unit pursuant to a decree of dissolution of marriage or legal separation.

5. Any order of protection or order for child support, custody, temporary custody, visitation or maintenance entered under sections 455.010 to 455.085 shall terminate [when the parties voluntarily consent to the termination of the order by a written consent filed with the court which entered the order] **upon the filing of a motion to terminate the order of protection by the petitioner; except that, in cases where the order grants custody of a minor child to the respondent, the order shall terminate only upon consent of both parties or upon the respondent's failure to object within ten days of receiving the petitioner's notice of the filing of the motion to dismiss. If the respondent timely objects to the dismissal, the court shall set the motion to dismiss for hearing and both parties shall have an opportunity to be heard.**

6. The order of protection may not change the custody of children when an action for dissolution of marriage has been filed or the custody has previously been awarded by a court of competent jurisdiction.

455.067. FOREIGN ORDER OF PROTECTION TO BE GIVEN FULL FAITH AND CREDIT — REGISTRATION OF ORDER, CONTENT, PROCEDURE. — 1. Any order of protection issued by any other state, **tribe**, territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia[,] shall be given full faith and credit throughout the state in all courts, and by all law enforcement officials and agencies, and all public officials **and shall be enforceable in the same manner as any order of protection issued by a court in this state.**

2. A person entitled to protection under a foreign order of protection as described in subsection 1 of this section may file a [petition seeking registration of the foreign order in the circuit court having jurisdiction. A certified copy of the foreign order of protection shall be attached to such petition. The petition shall set forth the date of the entry of the foreign order of protection and a record of any subsequent orders affecting such foreign order of protection, and shall state that to the best of such person's knowledge, the order filed with the petition is in effect. The court shall receive and consider such petition in the manner provided by sections 455.025 to 455.035, and its inquiry shall be limited to whether and the extent that the foreign order of protection is in effect. If the court decides such issues in the affirmative, the court shall issue an order giving full faith and credit to the foreign order of protection throughout the state, as if such foreign order was originally issued by a court of this state] **certified copy of the foreign order of protection and an affidavit or sworn statement from the petitioner that the copy of the foreign order is a true and accurate copy and has not been altered in the circuit court having jurisdiction. If the foreign order of protection terminates prior to the expiration date on the order, the petitioner shall notify the circuit court.** A foreign order of protection as described in subsection 1 of this section shall be enforceable in this state so long as it is in effect in the issuing state.

3. [A copy of the Missouri court's order recognizing a foreign order of protection shall be sent by the court to the respondent by certified mail, at his last known address, with a copy of the petition and foreign order of protection. At any time during the duration of the order recognizing the foreign order of protection, the respondent may move the court to modify or set aside its order recognizing the foreign order of protection. Such motion shall be heard only if a copy of the motion and a summons indicating a date and time certain for such hearing is personally served on the petitioner, and the respondent shall not be entitled to a continuance of such hearing. Such motion shall be sustained only if the respondent demonstrates to the court by clear and convincing evidence that the Missouri court's order was not issued in compliance with this section. The petitioner shall not be required to appear or to deny or rebut the allegations or evidence submitted by respondent in order for the court to deny respondent's motion.] **Filing of the foreign order of protection shall be without fee or cost.**

4. Registration and a Missouri court order recognizing a foreign order of protection shall not be required for the enforcement of a certified foreign order of protection in this state.

455.075. COSTS OF ATTORNEY'S FEES. — The court may order a party to pay a reasonable amount [for the cost] to the other party [of maintaining or defending any proceeding under sections 455.010 to 455.085 and] for attorney's fees[, including sums for legal services rendered and costs] incurred prior to the commencement of the proceeding or after entry of judgment. The court shall consider all relevant factors, including the financial resources of both parties, and may order that the amount be paid directly to the attorney, who may enforce the order in his name.

455.504. COURT CLERKS TO FURNISH PETITIONER WITH UNIFORM FORMS AND INFORMATION TO LITIGANTS HAVING NO COUNSEL ON PROCEDURE, FILING FORMS AND PLEADINGS — SERVICES OF CLERKS AND LOCATION OF OFFICE TO FILE PETITION TO BE POSTED — RULES — NO FEES REQUIRED — GUARDIAN AD LITEM OR CASA TO BE PROVIDED COPY OF PETITION. — 1. The clerk of the court shall make available to the petitioner the uniform forms adopted by the supreme court pursuant to section 455.073. Except as provided in section 455.510, clerks under the supervision of a circuit clerk shall explain to litigants not represented by counsel the procedures for filing all forms and pleadings necessary for the presentation of their petition filed pursuant to the provisions of sections 455.500 to 455.538 to the court. Notice of the fact that clerks will provide such assistance shall be conspicuously posted in the clerks' offices. The location of the office where a petition can be filed shall be conspicuously posted in the court building. The performance of duties prescribed in this section shall not constitute the practice of law as defined in section 484.010, RSMo. All

duties of the clerk prescribed in this section shall be performed without cost to the litigants. The supreme court may promulgate rules as necessary to govern conduct of court clerks under sections 455.500 to 455.538, and shall provide forms for petitions and written instructions on filling out all forms and pleadings necessary for the presentation of the petition to the court.

2. No [advance] filing fees, **court costs**, or bond shall be [required for filing a petition] **assessed** in an action commenced under sections 455.500 to 455.538.

3. [The clerk shall advise the petitioner of his right to file a financial statement indicating the petitioner's income and liabilities. This information may be required by the court and shall be considered before assessment of court costs.

4. Assessment of court costs or a determination of indigency shall be considered by the court at the time of a termination of the proceeding] **The clerk shall immediately notify the guardian ad litem or court-appointed special advocate of appointment and shall provide such guardian or advocate with a copy of the petition for the order of protection for the child. The clerk shall provide such guardian or advocate with the names, addresses, and telephone numbers of the parties within twenty-four hours of entry of the order appointing the guardian ad litem or court-appointed special advocate.**

488.610. VICTIM OF DOMESTIC VIOLENCE NOT TO PAY COSTS. — Notwithstanding any other law to the contrary, **no victim of the crime of domestic assault, as defined in sections 565.072 to 565.074, no victim of the crime of stalking, as defined in section 565.225, and no victim, as defined in section 595.010, RSMo,** shall be required to pay the costs associated with the filing of criminal charges against the offender, or the costs associated with the **filing**, issuance, **registration** or service of a warrant, protection order, **petition for protection order** or witness subpoena [associated with a domestic violence offense].

[455.508. DUTIES OF CIRCUIT CLERKS — RULES, FORMS, INSTRUCTIONS. — 1. Except as provided under section 455.510, clerks under the supervision of a circuit clerk shall explain to litigants not represented by counsel the procedures for filing all forms and pleadings necessary for the presentation of their petition to the court. The clerk shall advise the petitioner of his right to file a motion and affidavit to sue in forma pauperis pursuant to the Missouri Rules of Civil Procedure. Notice of the fact that clerks will provide such assistance shall be conspicuously posted in the clerks' offices. The location of the office where a petition can be filed shall be conspicuously posted in the court building. The performance of duties prescribed in this section shall not constitute the practice of law as defined in section 484.010, RSMo. All duties of the clerk prescribed in this section shall be performed without cost to the litigants. The supreme court may promulgate rules as necessary to govern conduct of court clerks under sections 455.500 to 455.538, and shall provide forms for petitions and written instructions on filling out all forms and pleadings necessary for the presentation of the petition to the court.

2. The clerk shall immediately notify the guardian ad litem or court-appointed special advocate of appointment and shall provide the guardian ad litem or court-appointed special advocate with a copy of the petition for the order of protection for the child. The clerk shall provide the guardian ad litem or court-appointed special advocate with the names, addresses and telephone numbers of the parties within twenty-four hours of entry of the order appointing the guardian ad litem or court-appointed special advocate.]

Approved July 10, 2002

HB 1822 [HB 1822]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Provides state employees protection against discharge if called to military duty or training and sets maximum hours of military leave and designates when and how such leave may be charged.

AN ACT to repeal section 105.270, RSMo, and to enact in lieu thereof one new section relating to leave of absences to perform military duty.

SECTION

A. Enacting clause.

105.270. Leave of absence to perform military duties mandatory — discrimination against militia members a misdemeanor — hours of leave, how computed.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 105.270, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.270, to read as follows:

105.270. LEAVE OF ABSENCE TO PERFORM MILITARY DUTIES MANDATORY — DISCRIMINATION AGAINST MILITIA MEMBERS A MISDEMEANOR — HOURS OF LEAVE, HOW COMPUTED. — 1. All officers and employees of this state, or of any department or agency thereof, or of any county, municipality, school district, or other political subdivision, and all other public employees of this state who are or may become members of the national guard or of any reserve component of the armed forces of the United States, shall be entitled to leave of absence from their respective duties, without loss of time, pay, regular leave, impairment of efficiency rating, or of any other rights or benefits, to which otherwise entitled, for all periods of military services during which they are engaged in the performance of duty or training in the service of this state at the call of the governor and as ordered by the adjutant general without regard to length of time, and for all periods of military services during which they are engaged in the performance of duty in the service of the United States under competent orders for a period not to exceed a total of [fifteen calendar days] **one hundred twenty hours** in any federal fiscal year.

2. Before any payment of salary is made covering the period of the leave the officer or the employee shall file with the appointing authority or supervising agency an official order from the appropriate military authority as evidence of such duty for which military leave pay is granted which order shall contain the certification of the officer or employee's commanding officer of performance of duty in accordance with the terms of such order.

3. No member of the organized militia shall be discharged from employment by any of the aforementioned agencies because of being a member of the organized militia, nor shall he be hindered or prevented from performing any militia service he may be called upon to perform by proper authority nor otherwise be discriminated against or dissuaded from enlisting or continuing his service in the militia by threat or injury to him in respect to his employment. Any officer or agent of the aforementioned agencies violating any of the provisions of this section is guilty of a misdemeanor.

4. Notwithstanding the provisions of any other administrative rule or law to the contrary, any person entitled to military leave pursuant to the provisions of subsection 1 of this section shall only be charged military leave for any hours which that person would otherwise have been required to work had it not been for such military leave. The minimum charge for military leave shall be one hour and additional charges for military leave shall be in multiples of the minimum charge.

Approved June 28, 2002

HB 1838 [HB 1838]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises licensing procedures for motor vehicle and watercraft dealers.

AN ACT to repeal section 301.560, RSMo, and to enact in lieu thereof one new section relating to licensure of motor vehicle and watercraft dealers.

SECTION

A. Enacting clause.

301.560. Application requirements, additional — bonds, fees, signs required — license number, certificate of numbers — duplicate dealer plates, issues, fees — test driving motor vehicles and vessels, use of plates.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 301.560, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.560, to read as follows:

301.560. APPLICATION REQUIREMENTS, ADDITIONAL — BONDS, FEES, SIGNS REQUIRED — LICENSE NUMBER, CERTIFICATE OF NUMBERS — DUPLICATE DEALER PLATES, ISSUES, FEES — TEST DRIVING MOTOR VEHICLES AND VESSELS, USE OF PLATES. — 1. In addition to the application forms prescribed by the department, each applicant shall submit the following to the department:

(1) **Every application other than a renewal application for a motor vehicle franchise dealer shall include a certification that the applicant has a bona fide established place of business.** When the application is being made for licensure as a manufacturer, [boat manufacturer,] motor vehicle dealer, [boat dealer,] wholesale motor vehicle dealer, wholesale motor vehicle auction or a public motor vehicle auction, [a] certification **shall be performed** by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located; except, that in counties of the first classification, certification may be [authorized] **performed** by an officer of a metropolitan police department when the applicant's established place of business of distributing or selling motor vehicles or trailers is in the metropolitan area where the certifying metropolitan police officer is employed[, that the applicant has a bona fide established place of business]. **When the application is being made for licensure as a boat manufacturer or boat dealer, certification shall be performed by a uniformed member of the Missouri state water patrol stationed in the district area in which the applicant's place of business is located or by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located or, if the applicant's place of business is located within the jurisdiction of a metropolitan police department in a first class county, by an officer of such metropolitan police department.** A bona fide established place of business for any new motor vehicle franchise dealer or used motor vehicle dealer shall include a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for the selling, bartering, trading or exchanging of motor vehicles or trailers and wherein the public may contact the owner or operator at any reasonable time, and wherein shall be kept and maintained the books, records, files and other matters required and necessary to conduct the business. The applicant's place of business shall contain a working telephone which shall be maintained during the entire registration year. In order to qualify as a bona fide established place of business for all applicants licensed pursuant to this section there shall be an exterior sign displayed carrying the name and class of business conducted in letters at least six inches in height and clearly visible to the public and there shall be an area or lot which shall not

be a public street on which one or more vehicles may be displayed, except when licensure is for a wholesale motor vehicle dealer, a lot and sign shall not be required. When licensure is for a boat dealer, a lot shall not be required. In the case of new motor vehicle franchise dealers, the bona fide established place of business shall include adequate facilities, tools and personnel necessary to properly service and repair motor vehicles and trailers under their franchisor's warranty;

(2) If the application is for licensure as a manufacturer, boat manufacturer, new motor vehicle franchise dealer, used motor vehicle dealer, wholesale motor vehicle auction, boat dealer or a public motor vehicle auction, a photograph, not to exceed eight inches by ten inches, showing the business building and sign shall accompany the initial application. In the case of a manufacturer, new motor vehicle franchise dealer or used motor vehicle dealer, the photograph shall include the lot of the business. A new motor vehicle franchise dealer applicant who has purchased a currently licensed new motor vehicle franchised dealership shall be allowed to submit a photograph of the existing dealership building, lot and sign but shall be required to submit a new photograph upon the installation of the new dealership sign as required by sections 301.550 to 301.573. Applicants shall not be required to submit a photograph annually unless the business has moved from its previously licensed location, or unless the name of the business or address has changed, or unless the class of business has changed;

(3) If the application is for licensure as a wholesale motor vehicle dealer or as a boat dealer, the application shall contain the business address, not a post office box, and telephone number of the place where the books, records, files and other matters required and necessary to conduct the business are located and where the same may be inspected during normal daytime business hours. Wholesale motor vehicle dealers and boat dealers shall file reports as required of new franchised motor vehicle dealers and used motor vehicle dealers;

(4) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer, a wholesale motor vehicle dealer, or boat dealer shall furnish with the application a corporate surety bond or an irrevocable letter of credit as defined in section 400.5-103, RSMo, issued by any state or federal financial institution in the penal sum of twenty-five thousand dollars on a form approved by the department. The bond or irrevocable letter of credit shall be conditioned upon the dealer complying with the provisions of the statutes applicable to new motor vehicle franchise dealers, used motor vehicle dealers, wholesale motor vehicle dealers and boat dealers, and the bond shall be an indemnity for any loss sustained by reason of the acts of the person bonded when such acts constitute grounds for the suspension or revocation of the dealer's license. The bond shall be executed in the name of the state of Missouri for the benefit of all aggrieved parties or the irrevocable letter of credit shall name the state of Missouri as the beneficiary; except, that the aggregate liability of the surety or financial institution to the aggrieved parties shall, in no event, exceed the amount of the bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter of credit shall be paid upon receipt by the department of a final judgment from a Missouri court of competent jurisdiction against the principal and in favor of an aggrieved party;

(5) Payment of all necessary license fees as established by the department. In establishing the amount of the annual license fees, the department shall, as near as possible, produce sufficient total income to offset operational expenses of the department relating to the administration of sections 301.550 to 301.573. All fees payable pursuant to the provisions of sections 301.550 to 301.573, other than those fees collected for the issuance of dealer plates or certificates of number collected pursuant to subsection 6 of this section, shall be collected by the department for deposit in the state treasury to the credit of the "Motor Vehicle Commission Fund", which is hereby created. The motor vehicle commission fund shall be administered by the Missouri department of revenue. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in such fund shall not be transferred and placed to the credit of the general revenue fund until the amount in the motor vehicle commission fund at the end of the biennium exceeds two times the amount of the appropriation from such fund for the preceding fiscal year or, if the department

requires permit renewal less frequently than yearly, then three times the appropriation from such fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the multiple of the appropriation from such fund for the preceding fiscal year.

2. In the event a new manufacturer, boat manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor vehicle auction or a public motor vehicle auction submits an application for a license for a new business and the applicant has complied with all the provisions of this section, the department shall make a decision to grant or deny the license to the applicant within eight working hours after receipt of the dealer's application, notwithstanding any rule of the department.

3. Upon the initial issuance of a license by the department, the department shall assign a distinctive dealer license number or certificate of number to the applicant and the department shall issue one number plate or certificate bearing the distinctive dealer license number or certificate of number within eight working hours after presentment of the application. Upon the renewal of a boat dealer, boat manufacturer, manufacturer, motor vehicle dealer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction, the department shall issue the distinctive dealer license number or certificate of number as quickly as possible. The issuance of such distinctive dealer license number or certificate of number shall be in lieu of registering each motor vehicle, trailer, vessel or vessel trailer dealt with by a boat dealer, boat manufacturer, manufacturer, public motor vehicle auction, wholesale motor vehicle dealer, wholesale motor vehicle auction or motor vehicle dealer.

4. Notwithstanding any other provision of the law to the contrary, the department shall assign the following distinctive dealer license numbers to:

New motor vehicle franchise dealers	D-0 through D-999
New motor vehicle franchise and commercial motor vehicle dealers	D-1000 through D-1999
Used motor vehicle dealers	D-2000 through D-5399 and D-6000 through D-9999
Wholesale motor vehicle dealers.	W-1000 through W-1999
Wholesale motor vehicle auctions.	W-2000 through W-2999
Trailer dealers.	T-0 through T-9999
Motor vehicle and trailer manufacturers	M-0 through M-9999
Motorcycle dealers	D-5400 through D-5999
Public motor vehicle auctions	A-1000 through A-1999
Boat dealers and boat manufacturers.	B-0 through B-9999

5. Upon the sale of a currently licensed new motor vehicle franchise dealership the department shall, upon request, authorize the new approved dealer applicant to retain the selling dealer's license number and shall cause the new dealer's records to indicate such transfer.

6. In the case of manufacturers and motor vehicle dealers, the department shall also issue one number plate bearing the distinctive dealer license number to the applicant upon payment by the manufacturer or dealer of a fifty-dollar fee. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Boat dealers and boat manufacturers shall be entitled to one certificate of number bearing such number upon the payment of a fifty-dollar fee. As many additional number plates as may be desired by manufacturers and motor vehicle dealers and as many additional certificates of number as may be desired by boat dealers and boat manufacturers may be obtained upon payment of a fee of ten dollars and fifty cents for each additional plate or certificate. A motor vehicle dealer, boat dealer, manufacturer, boat manufacturer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction obtaining a dealer license plate or certificate of number or additional license plate or additional certificate of number, throughout the calendar year, shall be required to pay a fee for such license plates or certificates of number computed on the basis of

one-twelfth of the full fee prescribed for the original and duplicate number plates or certificates of number for such dealers' licenses, multiplied by the number of months remaining in the licensing period for which the dealer or manufacturers shall be required to be licensed. In the event of a renewing dealer, the fee due at the time of renewal shall not be prorated.

7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any motor vehicle owned and held for resale by the motor vehicle dealer or manufacturer, and used by a customer who is test driving the motor vehicle, or is used by an employee or officer, but shall not be displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly used service or wrecker vehicle. Motor vehicle dealers may display their dealer plates on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition.

8. The certificates of number issued pursuant to subsection 3 or 6 of this section may be displayed on any vessel or vessel trailer owned and held for resale by a boat manufacturer or a boat dealer, and used by a customer who is test driving the vessel or vessel trailer, or is used by an employee or officer, but shall not be displayed on any vessel or vessel trailer hired or loaned to others or upon any regularly used service vessel or vessel trailer. Boat dealers and manufacturers may display their certificate of number on a vessel or vessel trailer which is being transported to an exhibit or show.

Approved June 13, 2002

HB 1839 [HB 1839]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes voting requirements for dissolution of certain special road districts.

AN ACT to repeal section 233.160, RSMo, and to enact in lieu thereof one new section relating to dissolution of special road districts.

SECTION

A. Enacting clause.

233.160. Dissolution of special road district — procedure.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 233.160, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 233.160, to read as follows:

233.160. DISSOLUTION OF SPECIAL ROAD DISTRICT — PROCEDURE. — 1. If any district has adopted the provisions of sections 233.010 to 233.165, the question may be resubmitted after the expiration of four years upon the petition of fifty voters of that district at an election.

2. The question shall be submitted in substantially the following form:

Shall the special road district be dissolved?

3. If a majority of the votes [upon such proposition are against it] **cast are in favor of the dissolution**, the district shall be disincorporated and the operation of the law shall cease in that district. In all other respects the election, and the results thereof, are governed by [the provisions of] sections 233.010 to 233.165.

Approved July 3, 2002

HB 1840 [HB 1840]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises law on electronic reporting system for lobbyist reports.

AN ACT to repeal section 105.477, RSMo, and to enact in lieu thereof one new section relating to electronic filing of lobbying reports.

SECTION

A. Enacting clause.

105.477. Electronic filing, lobbying reports — information to be made available, to whom — Internet web site connection, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 105.477, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.477, to read as follows:

105.477. ELECTRONIC FILING, LOBBYING REPORTS — INFORMATION TO BE MADE AVAILABLE, TO WHOM — INTERNET WEB SITE CONNECTION, WHEN. — 1. The commission shall supply [a computer program] **an electronic reporting system** which shall be used **by all lobbyists registered with the ethics commission** for filing by [modem or by a common magnetic media chosen] **electronic format prescribed** by the commission. The [computer program] **electronic reporting system** shall be able to [run on DOS,] **operate using either the** Windows or Macintosh [based personal computers or run on any other common personal computer operating environment which may become available in the future] **operating environment with minimum standards set by the commission.**

2. The commission shall have the appropriate software and hardware in place by January 1, [1998] **2003**, for acceptance of reports electronically. The commission shall make this information available via an Internet web site connection by no later than January 1, [1999] **2004**.

3. All lobbyists shall file expenditure reports required by the commission electronically [either through modem or common magnetic media] **as prescribed by the commission.** In addition, lobbyists shall file a signed form prescribed by the commission which verifies the information filed electronically within five working days; except that, [if] **when** a means becomes available which will allow a verifiable electronic signature, the commission may accept this in lieu of a [written statement] **signed form.**

4. All records that are in electronic format, not otherwise closed by law, shall be available in electronic format to the public. The commission shall maintain and provide for public inspection, a listing of all reports, with a complete description for each field contained on the report, that has been used to extract information from their database files. The commission shall develop a report or reports which contain every field in each database.

5. Annually, the commission shall provide[, without cost, a system-wide dump of] **to the general assembly at no cost a complete copy of** information contained in the commission's electronic **reporting system** database files [to the general assembly]. The information [is to] **shall** be copied onto a medium specified by the general assembly. Such information shall not contain records otherwise closed by law. It is the intent of the general assembly to provide open access to the commission's records. The commission shall make every reasonable effort to comply with requests for information and shall take a liberal interpretation when considering such requests. Priority shall be given to public requests for reports identifying lobbyist or lobbyist principal expenditures per individual legislator.

Approved July 10, 2002

HB 1846 [SCS HB 1846]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes reporting due dates of town and village financial reports.

AN ACT to repeal section 80.210, RSMo, and to enact in lieu thereof one new section relating to boards of trustees of towns and villages.

SECTION

- A. Enacting clause.
- 80.210. Trustees — semiannual reports.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 80.210, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 80.210, to read as follows:

80.210. TRUSTEES — SEMIANNUAL REPORTS. — The chairman of each board of trustees shall, [on the first days of March and September in each year] **semiannually**, make out a correct statement of all moneys received and expended on account of their respective towns during the six months next preceding; and shall cause such statement, within ten days thereafter, to be published, either in some newspaper printed in the same town, or by causing copies of such statement to be put up in six of the most public places in such town.

Approved July 3, 2002

HB 1849 [SCS HB 1849]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes a conveyance of state property to the Crawford County Commission.

AN ACT to authorize the conveyance of property owned by the state in the county of Crawford to the county commission of Crawford County, with an emergency clause.

SECTION

- 1. Conveyance of property located in Crawford County and owned by the state of Missouri to the county commission of Crawford County.
- A. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION 1. CONVEYANCE OF PROPERTY LOCATED IN CRAWFORD COUNTY AND OWNED BY THE STATE OF MISSOURI TO THE COUNTY COMMISSION OF CRAWFORD COUNTY. — **1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in the county of Crawford to the county commission of Crawford County. The property to be conveyed is more particularly described as follows:**

All that part of land described in Book 229, Page 161, Crawford County Records, all in Section 35, Township 40 North, Range 2 West, Crawford County, Missouri which lies within the following described right of way of Crawford County Bridge Project 14100121.

The project centerline for Sappington Bridge Road of said Crawford County Bridge Project is described as follows:

Commencing at the Southeast corner of the Northeast Quarter of said Section 35, thence North 78 degrees 06 minutes 20 seconds West, 1699.27 feet to a point, said point being shown on the plans of the proposed project as construction centerline station 0+00, Sappington Bridge Road; thence South 67 degrees 18 minutes 50 seconds East, 22.64 feet to the beginning of a curve, concave southwest, having a radius of 251.85 feet; thence southeasterly 216.64 feet along the arc of said curve through a central angle of 49 degrees 17 minutes 10 seconds to a point of reverse curvature of a curve having a radius of 251.85 feet; thence southeasterly 432.05 feet along the arc of said curve through a central angle of 98 degrees 17 minutes 21 seconds; thence North 63 degrees 40 minutes 59 seconds East, 351.70 feet to the beginning of a curve, concave southeast, having a radius of 251.85 feet; thence northeasterly 157.82 feet along the arc of said curve through a central angle of 35 degrees 54 minutes 17 seconds; thence South 80 degrees 24 minutes 44 seconds East, 169.15 feet to the ending point, said point being South 69 degrees 42 minutes 23 seconds East, 546.70 feet from the Southeast corner of the Northeast Quarter of said Section 35, said point being shown on the plans of the proposed as construction centerline station 13+50 at the end point of this description in the existing centerline of Sappington Bridge Road.

Widths of new right of way on the right side of the above described project centerline are as follows:

A tract of land having a width of 25.00 feet right of and adjacent to the above described project centerline at station 4+15.55; thence along a curve to the left 25.00 feet right of and parallel to the above described project centerline to a point 25.00 feet right of station 5+00; thence on a direct line to a point 82.00 feet right of station 6+71.32; thence on a direct line to a point 85.00 feet right of station 7+35.34; thence on a direct line to a point 55.00 feet right of station 7+84.39; thence on a direct line to a point 55.00 feet right of station 8+54.34.

Containing 21,634 square feet or 0.50 acres more or less, and being subject to easements of record.

Widths of new right of way on the left side of the above described project centerline are as follows:

A tract of land having a width of 25.00 feet left of and adjacent to the above described project centerline at station 4+13.55; thence along a curve to the left 25.00 feet left of and parallel to the above described project centerline to a point 25.00 feet right of station 5+51.02; thence on a direct line to a point 90.00 feet left of station 6+15.08; thence on a direct line to a point 110.80 feet left of station 7+76.09.

Containing 24,880 square feet or 0.57 acres more or less, and being subject to easements of record.

Also a temporary construction easement more particularly described as follows:

Widths of temporary construction easement on the right side of the above described project centerline are as follows: A tract of land having a width of 40.00 feet right of and adjacent to the above described project centerline at station 4+16.01; thence along a curve to the left 40.00 feet right of and parallel to the above described project centerline to a point 40.00 feet right of station 5+12.75; thence on a direct line to a point 80.00 feet right of station 5+27.63; thence on a direct line to a point 150.00 feet right of station 5+90.01; thence on a direct line to a point 217.00 feet right of station 6+84.93; thence on a direct line to a point 117.00 feet right of station 8+83.60, said point being the terminus of said temporary construction easement.

Containing 44,000 square feet or 1.01 acres more or less, and being subject to easements of record, except for that contained in the above described right of way easement.

Widths of temporary construction easement on the left side of the above described project centerline are as follows:

A tract of land having a width of 40.00 feet left of and adjacent to the above described project centerline at station 4+12.77; thence along a curve to the left 40.00 feet left of and parallel to the above described project centerline to a point 40.00 feet left of station 5+40.86; thence on a direct line to a point 104.00 feet left of station 6+04.44; thence on a direct line to a point 125.00 feet left of station 7+69.39, said point being the terminus of said temporary construction easement.

Containing 4,998 square feet or 0.11 acres more or less, and being subject to easements of record, except for that contained in the above described right of way easement.

Upon completion of the construction of said Crawford County Bridge Project 14100121, the easement rights in the above described temporary construction easement shall cease and be no longer in effect.

2. The commissioner of administration shall convey the property to the county for the sum of one dollar.

3. The attorney general shall approve as to form of the instrument of conveyance.

SECTION A. EMERGENCY CLAUSE. — Because immediate action is necessary to provide for necessary transportation infrastructure, section 1 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 1 of this act shall be in full force and effect upon its passage and approval.

Approved June 12, 2002

HB 1861 [HB 1861]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes a conveyance of state property to the Habitat for Humanity of St. Francois County.

AN ACT to authorize the conveyance of property owned by the state in the County of St. Francois to the Habitat for Humanity of St. Francois County.

SECTION

1. Conveyance of property owned by St. Francois County to Habitat for Humanity of St. Francois County.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION 1. CONVEYANCE OF PROPERTY OWNED BY ST. FRANCOIS COUNTY TO HABITAT FOR HUMANITY OF ST. FRANCOIS COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant and convey all interest in fee simple absolute in property owned by the state in the County of St. Francois, State of Missouri, to the Habitat for Humanity of St. Francois County. The property to be conveyed is more particularly described as follows:

A tract of land situated in the city of Farmington and the state of Missouri, lying in part of Lot 70 of the Subdivision of United States Survey 2969, Township 35 North, Range 5 East of the fifth Principal Meridian, described as follows, to wit: Commencing at the Southeast corner of Lot 4 of Crosswinds - Amended Plat 1, a subdivision filed for record in Plat Book 14 at Page 42, being on the West right-of-way line of Perrine Road, the POINT OF BEGINNING of the tract herein described; thence South 07 05'05" West 150.00' along said West right-of-way line; thence leaving said West right-of-way line, North 82 45'45" West 167.67'; thence North 07 05'05" East 150.00' to the Southwest corner of Lot 42 of Crosswinds - Plat 2, a subdivision filed for record in Plat Book 15 at Page 163; thence South 82 45'45" East 167.67' along the South line of said Lot 42 and said Lot 4 to the point of beginning. Containing 0.58 acres, more or less.

SUBJECT TO ALL easements, conditions, restrictions and right-of-ways of record and those not of record.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the sale.

3. The attorney general shall approve as to form of the instrument of conveyance.

Approved June 12, 2002

HB 1888 [SS SCS HCS HB 1888]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires Internet access of pawnshop information to law enforcement officials.

AN ACT to repeal sections 150.465, 191.905, 252.235, 367.031, 367.044, 367.055, 569.095, 569.097, 569.099, 570.010, 570.020, 570.030, 570.040, 570.080, 570.085, 570.090, 570.120, 570.123, 570.125, 570.130, 570.210, 570.300, 578.150, 578.377, 578.379, 578.381 and 578.385, RSMo, relating to stolen property and services, and to enact in lieu thereof twenty-seven new sections relating to the same subject, with penalty provisions.

SECTION

- A. Enacting clause.
- 150.465. Sale by itinerant vendors and peddlers of baby food, drugs, cosmetics, devices — exception — penalty.
- 191.905. False statement to receive health care payment prohibited — kickback, bribe, purpose, prohibited, exceptions — abuse prohibited — penalty — prosecution, procedure — Medicaid fraud reimbursement fund created — restitution — civil penalty — notification to disciplinary agencies — civil action authorized.
- 252.235. Sale of any species of wildlife, fish parts thereof or eggs taken in violation of rules — penalties — sale and property defined.
- 367.031. Receipt for pledged property — contents — definitions — third party charge for database — access to database information, limitations — error in data, procedure — loss of pawn ticket, effect.
- 367.044. Definitions — pledged goods for money, pawnbroker entitled only to goods pledged, exception, misappropriated goods — procedure to recover.
- 367.055. Inspection of property, search warrant required — hold order, probable cause, contents, expiration — confidentiality.
- 569.095. Tampering with computer data, penalties.
- 569.097. Tampering with computer equipment, penalties.
- 569.099. Tampering with computer users, penalties.
- 570.010. Chapter definitions.
- 570.020. Determination of value.

- 570.030. Stealing — penalties.
- 570.040. Stealing, third offense.
- 570.080. Receiving stolen property.
- 570.085. Alteration or removal of item numbers with intent to deprive lawful owner.
- 570.090. Forgery.
- 570.120. Crime of passing bad checks, penalty — actual notice given, when — assessment of costs, amount — payroll checks, action, when — service charge may be collected — return of bad check to depositor by financial institution must be on condition that issuer is identifiable.
- 570.123. Civil action for damages for passing bad checks, only original holder may bring action — limitations — notice requirements — payroll checks, action to be against employer.
- 570.125. Fraudulently stopping payment on an instrument, penalties.
- 570.130. Fraudulent use of a credit device or debit device — penalty.
- 570.210. Library theft, penalty.
- 570.300. Theft of cable television service, penalty.
- 578.150. Failure to return rented personal property — prima facie evidence, when — law enforcement procedure — penalty — venue — notice, contents — exception.
- 578.377. Unlawful receipt of food stamps or ATP cards — grades of offense, penalty.
- 578.379. Unlawful conversion of food stamps or ATP cards — grades of offense, penalty.
- 578.381. Unlawful transfer of food stamps or ATP cards — grades of offense, penalty.
- 578.385. Perjury — committed when obtaining public assistance, penalty.
- B. Severability clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 150.465, 191.905, 252.235, 367.031, 367.044, 367.055, 569.095, 569.097, 569.099, 570.010, 570.020, 570.030, 570.040, 570.080, 570.085, 570.090, 570.120, 570.123, 570.125, 570.130, 570.210, 570.300, 578.150, 578.377, 578.379, 578.381 and 578.385, RSMo, are repealed and twenty-seven new sections enacted in lieu thereof, to be known as sections 150.465, 191.905, 252.235, 367.031, 367.044, 367.055, 569.095, 569.097, 569.099, 570.010, 570.020, 570.030, 570.040, 570.080, 570.085, 570.090, 570.120, 570.123, 570.125, 570.130, 570.210, 570.300, 578.150, 578.377, 578.379, 578.381 and 578.385, to read as follows:

150.465. SALE BY ITINERANT VENDORS AND PEDDLERS OF BABY FOOD, DRUGS, COSMETICS, DEVICES — EXCEPTION — PENALTY. — 1. No itinerant vendor as defined in section 150.380, and no peddler as defined in section 150.470, shall offer for sale:

(1) Any food solely manufactured and packaged for sale for consumption by a child under the age of two years; or

(2) Drugs, devices and cosmetics as defined in section 196.010, RSMo.

2. This section shall not apply to authorized agents of a manufacturer of any item enumerated in subsection 1 of this section.

3. Violation of this section is a class A misdemeanor.

4. Itinerant vendors and peddlers shall make available within seventy-two hours upon request of any law enforcement officer any proof of purchase from a producer, manufacturer, wholesaler, or retailer of any new or unused property, as defined in section 570.010, RSMo.

5. Any forged receipt produced pursuant to subsection 4 of this section shall be prosecuted pursuant to section 570.090, RSMo.

191.905. FALSE STATEMENT TO RECEIVE HEALTH CARE PAYMENT PROHIBITED — KICKBACK, BRIBE, PURPOSE, PROHIBITED, EXCEPTIONS — ABUSE PROHIBITED — PENALTY — PROSECUTION, PROCEDURE — MEDICAID FRAUD REIMBURSEMENT FUND CREATED — RESTITUTION — CIVIL PENALTY — NOTIFICATION TO DISCIPLINARY AGENCIES — CIVIL ACTION AUTHORIZED. — 1. No health care provider shall knowingly make or cause to be made a false statement or false representation of a material fact in order to receive a health care payment, including but not limited to:

(1) Knowingly presenting to a health care payer a claim for a health care payment that falsely represents that the health care for which the health care payment is claimed was medically necessary, if in fact it was not;

(2) Knowingly concealing the occurrence of any event affecting an initial or continued right under a medical assistance program to have a health care payment made by a health care payer for providing health care;

(3) Knowingly concealing or failing to disclose any information with the intent to obtain a health care payment to which the health care provider or any other health care provider is not entitled, or to obtain a health care payment in an amount greater than that which the health care provider or any other health care provider is entitled;

(4) Knowingly presenting a claim to a health care payer that falsely indicates that any particular health care was provided to a person or persons, if in fact health care of lesser value than that described in the claim was provided.

2. No person shall knowingly solicit or receive any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind in return for:

(1) Referring another person to a health care provider for the furnishing or arranging for the furnishing of any health care; or

(2) Purchasing, leasing, ordering or arranging for or recommending purchasing, leasing or ordering any health care.

3. No person shall knowingly offer or pay any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, to any person to induce such person to refer another person to a health care provider for the furnishing or arranging for the furnishing of any health care.

4. Subsections 2 and 3 of this section shall not apply to a discount or other reduction in price obtained by a health care provider if the reduction in price is properly disclosed and appropriately reflected in the claim made by the health care provider to the health care payer, or any amount paid by an employer to an employee for employment in the provision of health care.

5. Exceptions to the provisions of subsections 2 and 3 of this subsection shall be provided for as authorized in 42 U.S.C. section 1320a-7b(3)(E), as may be from time to time amended, and regulations promulgated pursuant thereto.

6. No person shall knowingly abuse a person receiving health care.

7. A person who violates subsections 1 to 4 of this section is guilty of a class D felony upon his first conviction, and shall be guilty of a class C felony upon his second and subsequent convictions. A prior conviction shall be pleaded and proven as provided by section 558.021, RSMo. A person who violates subsection 6 of this section shall be guilty of a class C felony, unless the act involves no physical, sexual or emotional harm or injury and the value of the property involved is less than [one hundred fifty] **five hundred** dollars, in which event a violation of subsection 6 of this section is a class A misdemeanor.

8. Each separate false statement or false representation of a material fact proscribed by subsection 1 of this section or act proscribed by subsection 2 or 3 of this section shall constitute a separate offense and a separate violation of this section, whether or not made at the same or different times, as part of the same or separate episodes, as part of the same scheme or course of conduct, or as part of the same claim.

9. In a prosecution [under] **pursuant to** subsection 1 of this section, circumstantial evidence may be presented to demonstrate that a false statement or claim was knowingly made. Such evidence of knowledge may include but shall not be limited to the following:

(1) A claim for a health care payment submitted with the health care provider's actual, facsimile, stamped, typewritten or similar signature on the claim for health care payment;

(2) A claim for a health care payment submitted by means of computer billing tapes or other electronic means;

(3) A course of conduct involving other false claims submitted to this or any other health care payer.

10. Any person convicted of a violation of this section, in addition to any fines, penalties or sentences imposed by law, shall be required to make restitution to the federal and state governments, in an amount at least equal to that unlawfully paid to or by the person, and shall be required to reimburse the reasonable costs attributable to the investigation and prosecution pursuant to sections 191.900 to 191.910. All of such restitution shall be paid and deposited to the credit of the "Medicaid Fraud Reimbursement Fund", which is hereby established in the state treasury. Moneys in the Medicaid fraud reimbursement fund shall be divided and appropriated to the federal government and affected state agencies in order to refund moneys falsely obtained from the federal and state governments. All of such cost reimbursements attributable to the investigation and prosecution shall be paid and deposited to the credit of the "Medicaid Fraud Prosecution Revolving Fund", which is hereby established in the state treasury. Moneys in the Medicaid fraud prosecution revolving fund may be appropriated to the attorney general, or to any prosecuting or circuit attorney who has successfully prosecuted an action for a violation of sections 191.900 to 191.910 and been awarded such costs of prosecution, in order to defray the costs of the attorney general and any such prosecuting or circuit attorney in connection with their duties provided by sections 191.900 to 191.910. No moneys shall be paid into the Medicaid fraud protection revolving fund pursuant to this subsection unless the attorney general or appropriate prosecuting or circuit attorney shall have commenced a prosecution pursuant to this section, and the court finds in its discretion that payment of attorneys' fees and investigative costs is appropriate under all the circumstances, and the attorney general and prosecuting or circuit attorney shall prove to the court those expenses which were reasonable and necessary to the investigation and prosecution of such case, and the court approves such expenses as being reasonable and necessary. The provisions of section 33.080, RSMo, notwithstanding, moneys in the Medicaid fraud prosecution revolving fund shall not lapse at the end of the biennium.

11. A person who violates subsections 1 to 4 of this section shall be liable for a civil penalty of not less than five thousand dollars and not more than ten thousand dollars for each separate act in violation of such subsections, plus three times the amount of damages which the state and federal government sustained because of the act of that person, except that the court may assess not more than two times the amount of damages which the state and federal government sustained because of the act of the person, if the court finds:

(1) The person committing the violation of this section furnished personnel employed by the attorney general and responsible for investigating violations of sections 191.900 to 191.910 with all information known to such person about the violation within thirty days after the date on which the defendant first obtained the information;

(2) Such person fully cooperated with any government investigation of such violation; and

(3) At the time such person furnished the personnel of the attorney general with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.

12. Upon conviction [under] **pursuant to** this section, the prosecution authority shall provide written notification of the conviction to all regulatory or disciplinary agencies with authority over the conduct of the defendant health care provider.

13. The attorney general may bring a civil action against any person who shall receive a health care payment as a result of a false statement or false representation of a material fact made or caused to be made by that person. The person shall be liable for up to double the amount of all payments received by that person based upon the false statement or false representation of a material fact, and the reasonable costs attributable to the prosecution of the civil action. All such restitution shall be paid and deposited to the credit of the Medicaid fraud reimbursement fund, and all such cost reimbursements shall be paid and deposited to the credit of the Medicaid fraud prosecution revolving fund. No reimbursement of such costs attributable to the prosecution of the civil action shall be made or allowed except with the approval of the court having jurisdiction of the civil action. No civil action provided by this subsection shall be brought if restitution and

civil penalties provided by subsections 10 and 11 of this section have been previously ordered against the person for the same cause of action.

252.235. SALE OF ANY SPECIES OF WILDLIFE, FISH PARTS THEREOF OR EGGS TAKEN IN VIOLATION OF RULES — PENALTIES — SALE AND PROPERTY DEFINED. — The sale, taking for sale or possession for sale of any species of fish or wildlife, or parts thereof, which shall include eggs, which have been taken or possessed in violation of the rules and regulations of the commission, is prohibited. Any person violating the provisions of this section shall be guilty of a class A misdemeanor for the first offense if the sale amounts to less than [one hundred fifty] **five hundred** dollars. Any person violating the provisions of this section shall be guilty of a class D felony for the second and subsequent offense if the sale amounts to less than [one hundred fifty] **five hundred** dollars. Any person violating the provisions of this section shall be guilty of a class C felony for the first and all subsequent offenses if the sale amounts to [more than one hundred fifty] **five hundred** dollars or more. "Sale" means the exchange of an amount of money, other negotiable instruments, or property of value received by the person or persons selling the prohibited species. "Sale", for purposes of this section, shall also mean the intention to exchange an amount of money, other negotiable instruments or property of value for a prohibited species. For the purposes of this section "property" is defined by section 570.010, RSMo, and value shall be ascertained as set forth in section 570.020, RSMo.

367.031. RECEIPT FOR PLEDGED PROPERTY — CONTENTS — DEFINITIONS — THIRD PARTY CHARGE FOR DATABASE — ACCESS TO DATABASE INFORMATION, LIMITATIONS — ERROR IN DATA, PROCEDURE — LOSS OF PAWN TICKET, EFFECT. — 1. At the time of making any secured personal credit loan, the lender shall execute and deliver to the borrower a receipt for and describing the tangible personal property subjected to the security interest to secure the payment of the loan. The receipt shall contain the following:

- (1) The name and address of the pawnshop;
- (2) The name and address of the pledgor, the pledgor's description, and the driver's license number, military identification number, identification certificate number, or other official number capable of identifying the pledgor;
- (3) The date of the transaction;
- (4) An identification and description of the pledged goods, including serial numbers if reasonably available;
- (5) The amount of cash advanced or credit extended to the pledgor;
- (6) The amount of the pawn service charge;
- (7) The total amount which must be paid to redeem the pledged goods on the maturity date;
- (8) The maturity date of the pawn transaction; and
- (9) A statement to the effect that the pledgor is not obligated to redeem the pledged goods, and that the pledged goods may be forfeited to the pawnbroker sixty days after the specified maturity date.

2. The pawnbroker may be required, in accordance with local ordinances, to furnish [local] **appropriate** law enforcement authorities with copies of information contained in subdivisions (1) to (4) of subsection 1 of this section **and information contained in subdivision (6) of subsection 4 of section 367.040. The pawnbroker may satisfy such requirements by transmitting such information electronically to a database in accordance with this section, except that paper copies shall be made available for an on-site inspection upon request of any appropriate law enforcement authority.**

3. As used in this section, the following terms mean:

- (1) "Database", a computer database established and maintained by a third party engaged in the business of establishing and maintaining one or more databases;
- (2) "Permitted user", persons authorized by law enforcement personnel to access the database;

(3) "Reportable data", the information required to be recorded by pawnbrokers for pawn transactions pursuant to subdivisions (1) to (4) of subsection 1 of this section and the information required to be recorded by pawnbrokers for purchase transactions pursuant to subdivision (6) of subsection 4 of section 367.040;

(5) "Reporting pawnbroker", a pawnbroker who chooses to transmit reportable data electronically to the database;

(6) "Search", the accessing of a single database record.

4. The database shall provide appropriate law enforcement officials with the information contained in subdivisions (1) to (4) of subsection 1 of this section and other useful information to facilitate the investigation of alleged property crimes while protecting the privacy rights of pawnbrokers and pawnshop customers with regard to their transactions.

5. The database shall contain the pawn and purchase transaction information recorded by reporting pawnbrokers pursuant to this section and section 367.040 and shall be updated as requested. The database shall also contain such security features and protections as may be necessary to ensure that the reportable data maintained in the database can only be accessed by permitted users in accordance with the provisions of this section.

6. The third party's charge for the database shall be based on the number of permitted users. Law enforcement agencies shall be charged directly for access to the database, and the charge shall be reasonable in relation to the costs of the third party in establishing and maintaining the database. No reporting pawnbroker or customer of a reporting pawnbroker shall be charged any costs for the creation or utilization of the database.

7. (1) The information in the database shall only be accessible through the Internet to permitted users who have provided a secure identification or access code to the database but shall allow such permitted users to access database information from any jurisdiction transmitting such information to that database. Such permitted users shall provide the database with an identifier number of a criminal action for which the identity of the pawn or purchase transaction customer is needed and a representation that the information is connected to an inquiry or to the investigation of a complaint or alleged crime involving goods delivered by that customer in that transaction. The database shall record, for each search, the identity of the permitted user, the pawn or purchase transaction involved in the search, and the identity of any customer accessed through the search. Each search record shall be made available to other permitted users regardless of their jurisdiction. The database shall enable reporting pawnbrokers to transmit to the database through the Internet reportable data for each pawn and purchase transaction.

(2) Any person who gains access to information in the database through fraud or false pretenses shall be guilty of a class C felony.

8. Any pawnbroker licensed after August 28, 2002, shall meet the following requirements:

(1) Provide all reportable data to appropriate users by transmitting it through the Internet to the database;

(2) Transmit all reportable data for one business day to the database prior to the end of the following business day;

(3) Make available for on-site inspection to any appropriate law enforcement official, upon request, paper copies of any pawn or purchase transaction documents.

9. If a reporting pawnbroker or permitted user discovers any error in the reportable data, notice of such error shall be given to the database, which shall have a period of thirty days in which to correct the error. Any reporting pawnbroker experiencing a computer malfunction preventing the transmission of reportable data or receipt of search requests shall be allowed a period of at least thirty but no more than sixty days to repair such

malfunction, and during such period such pawnbroker shall not be deemed to be in violation of this section if good faith efforts are made to correct the malfunction. During the periods specified in this subsection, the reporting pawnbroker and permitted user shall arrange an alternative method or methods by which the reportable data shall be made available.

10. No reporting pawnbroker shall be obligated to incur any cost, other than Internet service costs, in preparing, converting, or delivering its reportable data to the database.

[3.] **11.** If the pawn ticket is lost, destroyed, or stolen, the pledgor may so notify the pawnbroker in writing, and receipt of such notice shall invalidate such pawn ticket, if the pledged goods have not previously been redeemed. Before delivering the pledged goods or issuing a new pawn ticket, the pawnbroker shall require the pledgor to make a written affidavit of the loss, destruction or theft of the ticket. The pawnbroker shall record on the written statement the identifying information required, the date the statement is given, and the number of the pawn ticket lost, destroyed, or stolen. The affidavit shall be signed by a notary public appointed by the secretary of state pursuant to section 486.205, RSMo, to perform notarial acts in this state.

367.044. DEFINITIONS — PLEDGED GOODS FOR MONEY, PAWNBROKER ENTITLED ONLY TO GOODS PLEDGED, EXCEPTION, MISAPPROPRIATED GOODS — PROCEDURE TO RECOVER.

— 1. As used in sections 367.044 to 367.055, the following terms mean:

(1) "Claimant", a person who claims that property in the possession of a pawnbroker is misappropriated from the claimant and fraudulently pledged or sold to the pawnbroker;

(2) "Conveying customer", a person who delivers property into the possession of a pawnbroker, either through a pawn transaction, a sale or trade, which property is later claimed to be misappropriated;

(3) "Hold order", a written legal instrument issued to a pawnbroker by a law enforcement officer commissioned by the law enforcement agency of the municipality or county that licenses and regulates the pawnbroker, ordering the pawnbroker to retain physical possession of pledged goods in the possession of a pawnbroker or property purchased by and in the possession of a pawnbroker and not to return, sell or otherwise dispose of such property as such property is believed to be misappropriated goods;

(4) "Law enforcement officer", the sheriff or sheriff's deputy designated by the sheriff of the county in which the pawnbroker's pawnshop is located, or when the pawnbroker's pawnshop is located within a municipality, the police chief or police officer designated by the police chief of the municipality in which the pawnbroker's pawnshop is located;

(5) "Misappropriated", stolen, embezzled, converted, or otherwise wrongfully appropriated or pledged against the will of the rightful owner or party holding a perfected security interest;

(6) "Pledgor", a person who pledges property to the pawnbroker;

(7) "Purchaser", a person who purchases property from a pawnbroker; and

(8) "Seller", a person who sells property to a pawnbroker.

2. A pawnbroker shall have no recourse against the pledgor for payment on a pawn transaction except the pledged goods themselves, unless the goods are found to have been misappropriated.

3. [To obtain possession of tangible personal property held by a pawnbroker which a claimant claims to be misappropriated, the claimant may file a petition in a court of competent jurisdiction in the county where the theft occurred or where the pawnbroker's pawnshop is located, requesting the return of the property, naming the pawnbroker as a defendant and serving the pawnbroker with the petition. The provisions of section 482.305, RSMo, to the contrary notwithstanding, a court of competent jurisdiction shall include a small claims court, even if the value of the property named in the petition is greater than three thousand dollars. Upon receiving notice that a petition has been filed by a claimant for the return of property in the pawnbroker's possession, the pawnbroker shall hold the property identified in the claimant's petition until the right to possession is resolved by the parties or by a court of competent jurisdiction.

4. Upon being served notice that a petition has been filed pursuant to this section, the pawnbroker may, after determining the validity of the claimant's claim, return the property to the claimant prior to a decision being rendered on the claimant's petition by the court. The pawnbroker shall return the property to the claimant free of any principal, interest and service charges, conditioned only upon the claimant withdrawing the petition filed with a court of competent jurisdiction seeking the disposition of said property. Property voluntarily returned by a pawnbroker to a claimant subject to this subsection shall be returned:

- (1) Immediately when the property is not subject to a pawn transaction contract; and
- (2) When the property is subject to a pawn transaction contract, the pawnbroker shall deliver the property to the claimant immediately upon the termination of the pawn transaction contract, except that if the pledgor of the property subject to a claimant's claim attempts to redeem the property as provided for by the pawn transaction contract, the pawnbroker may collect any principal, interest or service charges due and shall hold the property until the right to possession is resolved by the parties or by a court of competent jurisdiction. The provisions of this section to the contrary notwithstanding, the pawnbroker shall not be required to pay any costs incurred by the claimant and the claimant shall not be required to pay any costs incurred by the pawnbroker when the property subject to the claimant's petition is returned to the claimant pursuant to this subsection.

5. When a claimant files a petition pursuant to this section, the pawnbroker may bring the conveying customer of the alleged misappropriated property into that action as a third-party defendant. When a claimant files a petition pursuant to this section, the pawnbroker shall bring the conveying customer of the alleged misappropriated property into that action as a third-party defendant if the pawnbroker has collected any principal, interest or service charges pursuant to subdivision (2) of subsection 4 of this section. If after notice to the pawnbroker and an opportunity to add the conveying customer as a defendant, the property in the possession of the pawnbroker is found by a court of competent jurisdiction to be the claimant's property and the property is awarded to the claimant by the court, then:

- (1) The prevailing claimant may recover from the pawnbroker the cost of the action, including attorney's fees;
- (2) The conveying customer shall be liable to repay the pawnbroker the full amount received from the pawnbroker from the pawn or sales transaction, including all applicable fees and interest charged and the costs incurred by the pawnbroker in pursuing the procedure described in this section, including attorney's fees.] **A pawnbroker shall require of every person from whom the pawnbroker receives sold or pledged property proof of identification which includes a current address and, if applicable, telephone number, and a current picture identification issued by state or federal government.**

4. **If any seller fails to provide a pawnbroker with proof of identification, the pawnbroker shall hold such property for a period of thirty days prior to selling or otherwise transferring such property, provided, the seller has submitted a signed statement that the seller is the legal owner of the property and stating when or from whom such property was acquired by the seller.**

5. **To obtain possession of tangible personal property held by a pawnbroker which a claimant claims to be misappropriated, the claimant shall provide the pawnbroker with a written demand for the return of such property, a copy of a police or sheriff report wherein claimant reported the misappropriation or theft of said property and which contains a particularized description of the property or applicable serial number, and a signed affidavit made under oath setting forth they are the true owner of the property, the name and address of the claimant, a description of the property being claimed, the fact that such property was taken from the claimant without the claimant's consent, permission or knowledge, the fact that the claimant has reported the theft to the police, the fact that the claimant will assist in any prosecution relating to such property, the promise that the claimant will respond to court process in any criminal prosecution relating to said**

property and will testify truthfully as to all facts within the claimant's knowledge and not claim any testimonial privilege with respect to said facts. These documents shall be presented to the pawnbroker concurrently.

6. Upon being served with a proper demand by a claimant for the return of property pursuant to subsection 5 of this section, the pawnbroker shall return the property to the claimant, in the presence of a law enforcement officer, within seven days unless the pawnbroker has good reason to believe that any of the matters set forth in the claimant's affidavit are false or if there is a hold order on the property pursuant to section 367.055. If a pawnbroker refuses to deliver property to a claimant upon a proper demand as described in subsection 5 of this section, the claimant may file a petition in a court of competent jurisdiction seeking the return of said property. The non-prevailing party shall be responsible for the costs of said action and the attorney fees of the prevailing party. The provisions of section 482.305, RSMo, to the contrary notwithstanding, a court of competent jurisdiction shall include a small claims court, even if the value of the property named in the petition is greater than three thousand dollars.

7. If a pawnbroker returns property to a claimant relying on the veracity of the affidavit described in subsection 5 of this section, and later learns that the information contained in said affidavit is false or that the claimant has failed to assist in prosecution or otherwise testify truthfully with respect to the facts within the claimant's knowledge, the pawnbroker shall have a cause of action against the claimant for the value of the property. The non-prevailing party shall be responsible for the cost of said action and the attorney fees of the prevailing party.

8. Nothing contained in this section shall limit a pawnbroker from bringing the conveying customer into a suit as a third-party, nor limit a pawnbroker from recovering from a conveying customer repayment of the full amount received from the pawnbroker from the pawn or sales transaction, including all applicable fees and interest charged, attorney's fees and the cost of the action.

367.055. INSPECTION OF PROPERTY, SEARCH WARRANT REQUIRED — HOLD ORDER, PROBABLE CAUSE, CONTENTS, EXPIRATION — CONFIDENTIALITY. — 1. Upon request of a law enforcement officer to inspect property that is described in information furnished by the pawnbroker pursuant to subdivisions (1) to (4) of subsection 1 of section 367.031, the law enforcement officer shall be entitled to inspect the property described, without prior notice or the necessity of obtaining a search warrant during regular business hours in a manner so as to minimize interference with or delay to the pawnbroker's business operation. When a law enforcement officer has probable cause to believe that goods or property in the possession of a pawnbroker are misappropriated, the officer may place a hold order on the property. The hold order shall contain the following:

- (1) The name of the pawnbroker;
- (2) The name and mailing address of the pawnshop where the property is held;
- (3) The name, title and identification number of the law enforcement officer placing the hold order;
- (4) The name and address of the agency to which the law enforcement officer is attached and the claim or case number, if any, assigned by the agency to the claim regarding the property;
- (5) A complete description of the property to be held including model and serial numbers;
- (6) The expiration date of the holding period.

The hold order shall be signed and dated by the issuing officer and signed and dated by the pawnbroker or the pawnbroker's designee as evidence of the hold order's issuance by the officer, receipt by the pawnbroker and the beginning of the initial holding period. The officer issuing the hold order shall provide an executed copy of the hold order to the pawnbroker for the pawnbroker's record-keeping purposes at no cost to the pawnbroker.

2. Upon receiving the hold order, and subject to the provisions of section 367.047, the pawnbroker shall retain physical possession of the property subject to the order in a secured area. The initial holding period of the hold order shall not exceed two months, except that the hold order may be extended for up to two successive one-month holding periods upon written notification prior to the expiration of the immediately preceding holding period. A hold order may be released prior to the expiration of any holding period or extension thereof by written release from the agency placing the initial hold order. The initial hold order shall be deemed expired upon the expiration date if the holding period is not extended pursuant to this subsection.

3. Upon the expiration of the initial holding period or any extension thereof, the pawnbroker shall deliver written notice to the law enforcement officer issuing the hold order that such order has expired and that title to the property subject to the hold order will vest in the pawnbroker in ten business days. Ownership shall only vest in the pawnbroker upon the expiration of the ten-day waiting period subject to any restriction contained in the pawn contract and subject to the provisions of sections 367.044 to 367.053. **Vesting of title and ownership shall be subject to any claim asserted by a claimant pursuant to section 367.044.**

4. In addition to the penalty provisions contained in section 367.050, gross negligence or willful noncompliance with the provisions of this section by a pawnbroker shall be cause for the licensing authority to suspend or revoke the pawnbroker's license. Any imposed suspensions or revocation provided for by this subsection may be appealed by the pawnbroker to the licensing authority or to a court of competent jurisdiction.

5. A county or municipality may enact orders or ordinances to license or regulate the operations of pawnbrokers which are consistent with and not more restrictive than the provisions of sections [367.044] **367.011** to 367.055, **except that municipalities located in any county with a charter form of government having a population greater than one million inhabitants or any city not within a county may regulate the number of pawn shop licensees.**

6. All records and information that relate to a pawnbroker's pawn, purchase or trade transactions and that are delivered to or otherwise obtained by an appropriate law enforcement officer pursuant to sections 367.031 and 367.040 are confidential and may be used only by such appropriate law enforcement officer and only for the following official law enforcement purposes:

- (1) The investigation of a crime specifically involving the item of property delivered to the pawnbroker in a pawn, purchase or trade transaction;
- (2) The investigation of a pawnbroker's possible specific violation of the record-keeping or reporting requirements of sections 367.031 and 367.040, but only when the appropriate law enforcement officer, based on a review of the records and the information received, has probable cause to believe that such a violation occurred; and
- (3) The notification of property crime victims of where property that has been reported misappropriated can be located.

569.095. TAMPERING WITH COMPUTER DATA, PENALTIES. — 1. A person commits the crime of tampering with computer data if he knowingly and without authorization or without reasonable grounds to believe that he has such authorization:

- (1) Modifies or destroys data or programs residing or existing internal to a computer, computer system, or computer network; or
- (2) Modifies or destroys data or programs or supporting documentation residing or existing external to a computer, computer system, or computer network; or
- (3) Discloses or takes data, programs, or supporting documentation, residing or existing internal or external to a computer, computer system, or computer network; or
- (4) Discloses or takes a password, identifying code, personal identification number, or other confidential information about a computer system or network that is intended to or does control [assess] **access** to the computer system or network;

(5) Accesses a computer, a computer system, or a computer network, and intentionally examines information about another person;

(6) Receives, retains, uses, or discloses any data he knows or believes was obtained in violation of this subsection.

2. Tampering with computer data is a class A misdemeanor, unless the offense is committed for the purpose of devising or executing any scheme or artifice to defraud or to obtain any property, the value of which is [one hundred fifty] **five hundred** dollars or more, in which case tampering with computer data is a class D felony.

569.097. TAMPERING WITH COMPUTER EQUIPMENT, PENALTIES. — 1. A person commits the crime of tampering with computer equipment if he knowingly and without authorization or without reasonable grounds to believe that he has such authorization:

(1) Modifies, destroys, damages, or takes equipment or data storage devices used or intended to be used in a computer, computer system, or computer network; or

(2) Modifies, destroys, damages, or takes any computer, computer system, or computer network.

2. Tampering with computer equipment is a class A misdemeanor, unless:

(1) The offense is committed for the purpose of executing any scheme or artifice to defraud or obtain any property, the value of which is [one hundred fifty] **five hundred** dollars or more, in which case it is a class D felony; or

(2) The damage to such computer equipment or to the computer, computer system, or computer network is [one hundred fifty] **five hundred** dollars or more but less than one thousand dollars, in which case it is a class D felony; or

(3) The damage to such computer equipment or to the computer, computer system, or computer network is one thousand dollars or greater, in which case it is a class C felony.

569.099. TAMPERING WITH COMPUTER USERS, PENALTIES. — 1. A person commits the crime of tampering with computer users if he knowingly and without authorization or without reasonable grounds to believe that he has such authorization:

(1) Accesses or causes to be accessed any computer, computer system, or computer network; or

(2) Denies or causes the denial of computer system services to an authorized user of such computer system services, which, in whole or in part, is owned by, under contract to, or operated for, or on behalf of, or in conjunction with another.

2. The offense of tampering with computer users is a class A misdemeanor unless the offense is committed for the purpose of devising or executing any scheme or artifice to defraud or to obtain any property, the value of which is [one hundred fifty] **five hundred** dollars or more, in which case tampering with computer users is a class D felony.

570.010. CHAPTER DEFINITIONS. — As used in this chapter:

(1) "Adulterated" means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage;

(2) "Appropriate" means to take, obtain, use, transfer, conceal or retain possession of;

(3) "Coercion" means a threat, however communicated:

(a) To commit any crime; or

(b) To inflict physical injury in the future on the person threatened or another; or

(c) To accuse any person of any crime; or

(d) To expose any person to hatred, contempt or ridicule; or

(e) To harm the credit or business repute of any person; or

(f) To take or withhold action as a public servant, or to cause a public servant to take or withhold action; or

(g) To inflict any other harm which would not benefit the actor.

A threat of accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of such threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat;

(4) "Credit device" means a writing, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer;

(5) "Dealer" means a person in the business of buying and selling goods;

(6) "Debit device" means a card, code, number or other device, other than a check, draft or similar paper instrument, by the use of which a person may initiate an electronic fund transfer, including but not limited to devices that enable electronic transfers of benefits to public assistance recipients;

(7) "Deceit" means purposely making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind. The term "deceit" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise;

(8) "Deprive" means:

(a) To withhold property from the owner permanently; or

(b) To restore property only upon payment of reward or other compensation; or

(c) To use or dispose of property in a manner that makes recovery of the property by the owner unlikely;

(9) "Misabeled" means varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage; or represented as being another person's product, though otherwise accurately labeled as to quality and quantity;

(10) **"New and unused property" means tangible personal property that has never been used since its production or manufacture and is in its original unopened package or container if such property was packaged;**

(11) "Of another" property or services is that "of another" if any natural person, corporation, partnership, association, governmental subdivision or instrumentality, other than the actor, has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement;

[(11)] (12) "Property" means anything of value, whether real or personal, tangible or intangible, in possession or in action, and shall include but not be limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument;

[(12)] (13) "Receiving" means acquiring possession, control or title or lending on the security of the property;

[(13)] (14) "Services" includes transportation, telephone, electricity, gas, water, or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles;

[(14)] (15) "Writing" includes printing, any other method of recording information, money, coins, negotiable instruments, tokens, stamps, seals, credit cards, badges, trademarks and any other symbols of value, right, privilege or identification.

570.020. DETERMINATION OF VALUE. — For the purposes of this chapter, the value of property shall be ascertained as follows:

(1) Except as otherwise specified in this section, "value" means the market value of the property at the time and place of the crime, or if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the crime;

(2) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value such as some public and corporate bonds and securities, shall be evaluated as follows:

(a) The value of an instrument constituting evidence of debt, such as a check, draft or promissory note, shall be deemed the amount due or collectible thereon or thereby, such figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(b) The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument;

(3) When the value of property cannot be satisfactorily ascertained pursuant to the standards set forth in subdivisions (1) and (2) of this section, its value shall be deemed to be an amount less than [one hundred fifty] **five hundred** dollars.

570.030. STEALING — PENALTIES. — 1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution under this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse;

(5) That he or she, with intent to cheat or defraud a retailer, possesses, uses, utters, transfers, makes, alters, counterfeits, or reproduces a retail sales receipt, price tag, or universal price code label, or possesses with intent to cheat or defraud, the device that manufactures fraudulent receipts or universal price code labels.

3. [Stealing] **Notwithstanding any other provision of law, any offense in which the value of property or services is an element** is a class C felony if:

(1) The value of the property or services appropriated is [seven] **five hundred [fifty] dollars** or more **but less than twenty five thousand dollars**; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(f) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(g) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(h) Any book of registration or list of voters required by chapter 115, RSMo; or

- (i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or
- (j) Live fish raised for commercial sale with a value of seventy-five dollars; or
- (k) Any controlled substance as defined by section 195.010, RSMo; or

(l) Anhydrous ammonia.

4. If an actor appropriates any material with a value less than [one] **five** hundred [fifty] dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class D felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class C felony. The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.

5. The theft of any item of property or services [under] **pursuant to** subsection 3 of this section which exceeds [seven] **five** hundred [fifty] dollars may be considered a separate felony and may be charged in separate counts.

6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony.

7. Any offense in which the value of property or services is an element is a class B felony if the value of the property or services equals or exceeds twenty-five thousand dollars.

8. Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.

570.040. STEALING, THIRD OFFENSE. — 1. Every person who has previously pled guilty or been found guilty on two separate occasions of [stealing,] **a stealing-related offense where such offenses occurred within ten years of the date of occurrence of the present offense and where the person received and served a sentence of ten days or more on such previous offense** and who subsequently pleads guilty or is found guilty of [stealing] **a stealing-related offense** is guilty of a class C felony and shall be punished accordingly.

2. [For the purpose of this section, guilty pleas or findings of guilt in any state or federal court or in a municipal court of this state shall be considered by the court to be previous pleas or findings of guilt for the enhancement purposes of this section as long as:

(1) The defendant was either represented by counsel or knowingly waived counsel in writing; and

(2)] **As used in this section, the term "stealing-related offense" shall include federal and state violations of criminal statutes against stealing or buying or receiving stolen property and shall also include municipal ordinances against same if the defendant was either represented by counsel or knowingly waived counsel in writing and the judge accepting the plea or making the findings was a licensed attorney at the time of the court proceedings.**

3. Evidence of prior guilty pleas or findings of guilt shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior guilty pleas or findings of guilt.

570.080. RECEIVING STOLEN PROPERTY. — 1. A person commits the crime of receiving stolen property if for the purpose of depriving the owner of a lawful interest therein, he receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.

2. Evidence of the following is admissible in any criminal prosecution [under] **pursuant to** this section to prove the requisite knowledge or belief of the alleged receiver:

(1) That he was found in possession or control of other property stolen on separate occasions from two or more persons;

(2) That he received other stolen property in another transaction within the year preceding the transaction charged;

(3) That he acquired the stolen property for a consideration which he knew was far below its reasonable value.

3. Receiving stolen property is a class A misdemeanor unless the property involved has a value of [one hundred fifty] **five hundred** dollars or more, or the person receiving the property is a dealer in goods of the type in question, in which cases receiving stolen property is a class C felony.

570.085. ALTERATION OR REMOVAL OF ITEM NUMBERS WITH INTENT TO DEPRIVE LAWFUL OWNER. — 1. A person commits the crime of alteration or removal of item numbers if he, with the purpose of depriving the owner of a lawful interest therein:

(1) Destroys, removes, covers, conceals, alters, defaces, or causes to be destroyed, removed, covered, concealed, altered, or defaced, the manufacturer's original serial number or other distinguishing owner-applied number or mark, on any item which bears a serial number attached by the manufacturer or distinguishing number or mark applied by the owner of the item, for any reason whatsoever;

(2) Sells, offers for sale, pawns or uses as security for a loan, any item on which the manufacturer's original serial number or other distinguishing owner-applied number or mark has been destroyed, removed, covered, concealed, altered, or defaced; or

(3) Buys, receives as security for a loan or in pawn, or in any manner receives or has in his possession any item on which the manufacturer's original serial number or other distinguishing owner-applied number or mark has been destroyed, removed, covered, concealed, altered, or defaced.

2. Alteration or removal of item numbers is a class D felony if the value of the item or items in the aggregate is [one hundred fifty] **five hundred** dollars or more. If the value of the item or items in the aggregate is less than [one hundred fifty] **five hundred** dollars, then it is a class B misdemeanor.

570.090. FORGERY. — 1. A person commits the crime of forgery if, with the purpose to defraud, [he] **the person:**

(1) Makes, completes, alters or authenticates any writing so that it purports to have been made by another or at another time or place or in a numbered sequence other than was in fact the case or with different terms or by authority of one who did not give such authority; or

(2) Erases, obliterates or destroys any writing; or

(3) Makes or alters anything other than a writing, **including receipts and universal product codes**, so that it purports to have a genuineness, antiquity, rarity, ownership or authorship which it does not possess; or

(4) Uses as genuine, or possesses for the purpose of using as genuine, or transfers with the knowledge or belief that it will be used as genuine, any writing or other thing **including receipts and universal product codes**, which the actor knows has been made or altered in the manner described in this section.

2. Forgery is a class C felony.

570.120. CRIME OF PASSING BAD CHECKS, PENALTY — ACTUAL NOTICE GIVEN, WHEN — ASSESSMENT OF COSTS, AMOUNT — PAYROLL CHECKS, ACTION, WHEN — SERVICE CHARGE MAY BE COLLECTED — RETURN OF BAD CHECK TO DEPOSITOR BY FINANCIAL INSTITUTION MUST BE ON CONDITION THAT ISSUER IS IDENTIFIABLE. — 1. A person commits the crime of passing a bad check when:

(1) With purpose to defraud, the person makes, issues or passes a check or other similar sight order for the payment of money, knowing that it will not be paid by the drawee, or that there is no such drawee; or

(2) The person makes, issues, or passes a check or other similar sight order for the payment of money, knowing that there are insufficient funds in that account or that there is no such account or no drawee and fails to pay the check or sight order within ten days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.

2. As used in subdivision (2) of subsection 1 of this section, "actual notice in writing" means notice of the nonpayment which is actually received by the defendant. Such notice may include the service of summons or warrant upon the defendant for the initiation of the prosecution of the check or checks which are the subject matter of the prosecution if the summons or warrant contains information of the ten-day period during which the instrument may be paid and that payment of the instrument within such ten-day period will result in dismissal of the charges. The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.

3. The face amounts of any bad checks passed pursuant to one course of conduct within any ten-day period may be aggregated in determining the grade of the offense.

4. Passing bad checks is a class A misdemeanor, unless:

(1) The face amount of the check or sight order or the aggregated amounts is [one hundred fifty] **five hundred** dollars or more; or

(2) The issuer had no account with the drawee or if there was no such drawee at the time the check or order was issued, in which cases passing bad checks is a class D felony.

5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney or circuit attorney who takes any action pursuant to the provisions of this section shall collect from the issuer in such action an administrative handling cost. The cost shall be five dollars for checks of less than ten dollars, ten dollars for checks of ten dollars but less than one hundred dollars, and twenty-five dollars for checks of one hundred dollars or more. For checks of one hundred dollars or more an additional fee of ten percent of the face amount shall be assessed, with a maximum fee for administrative handling costs not to exceed fifty dollars total. Notwithstanding the provisions of sections 50.525 to 50.745, RSMo, the costs provided for in this subsection shall be deposited by the county treasurer into a separate interest-bearing fund to be expended by the prosecuting attorney or circuit attorney. The funds shall be expended, upon warrants issued by the prosecuting attorney or circuit attorney directing the treasurer to issue checks thereon, only for purposes related to that previously authorized in this section. Any revenues that are not required for the purposes of this section may be placed in the general revenue fund of the county or city not within a county. **Notwithstanding any law to the contrary, in addition to the administrative handling cost, the prosecuting attorney or circuit attorney shall collect an additional cost of one dollar per check for deposit to the Missouri office of prosecution services fund established in subsection 2 of section 56.765, RSMo. All moneys collected pursuant to this section which are payable to the Missouri office of prosecution services fund shall be transmitted at least monthly by the county treasurer to the director of revenue who shall deposit the amount collected pursuant to the credit of the Missouri office of prosecution services fund under the procedure established pursuant to subsection 2 of section 56.765, RSMo.**

(2) The moneys deposited in the fund may be used by the prosecuting or circuit attorney for office supplies, postage, books, training, office equipment, capital outlay, expenses of trial and witness preparation, additional employees for the staff of the prosecuting or circuit attorney and employees' salaries.

(3) This fund may be audited by the state auditor's office or the appropriate auditing agency.

(4) If the moneys collected and deposited into this fund are not totally expended annually, then the unexpended balance shall remain in said fund and the balance shall be kept in said fund to accumulate from year to year.

6. [Notwithstanding any other provisions of law to the contrary, in addition to the administrative handling costs provided for in subsection 5 of this section, the prosecuting attorney or circuit attorney may, in his discretion, collect from the issuer, in addition to the face amount of the check, a reasonable service charge, which along with the face amount of the check shall be turned over to the party to whom the bad check was issued. If the prosecuting attorney or circuit attorney does not collect the service charge and the face amount of the check, the party to whom the check was issued may collect from the issuer a reasonable service charge along with the face amount of the check] **Notwithstanding any other provision of law to the contrary:**

(1) In addition to the administrative handling costs provided for in subsection 5 of this section, the prosecuting attorney or circuit attorney may collect from the issuer, in addition to the face amount of the check, a reasonable service charge, which along with the face amount of the check, shall be turned over to the party to whom the bad check was issued;

(2) If a check that is dishonored or returned unpaid by a financial institution is not referred to the prosecuting attorney or circuit attorney for any action pursuant to the provisions of this section, the party to whom the check was issued, or his or her agent or assignee, or a holder, may collect from the issuer, in addition to the face amount of the check, a reasonable service charge, not to exceed twenty-five dollars, plus an amount equal to the actual charge by the depository institution for the return of each unpaid or dishonored instrument.

7. In all cases where a prosecutor receives notice from the original holder that a person has violated this section with respect to a payroll check or order, the prosecutor, if he determines there is a violation of this section, shall file an information or seek an indictment within sixty days of such notice and may file an information or seek an indictment thereafter if the prosecutor has failed through neglect or mistake to do so within sixty days of such notice and if he determines there is sufficient evidence shall further prosecute such cases.

8. When any financial institution returns a dishonored check to the person who deposited such check, it shall be in substantially the same physical condition as when deposited, or in such condition as to provide the person who deposited the check the information required to identify the person who wrote the check.

570.123. CIVIL ACTION FOR DAMAGES FOR PASSING BAD CHECKS, ONLY ORIGINAL HOLDER MAY BRING ACTION — LIMITATIONS — NOTICE REQUIREMENTS — PAYROLL CHECKS, ACTION TO BE AGAINST EMPLOYER. — In addition to all other penalties provided by law, any person who makes, utters, draws, or delivers any check, draft, or order for the payment of money upon any bank, savings and loan association, credit union, or other depository, financial institution, person, firm, or corporation which is not honored because of lack of funds or credit to pay or because of not having an account with the drawee and who fails to pay the amount for which such check, draft, or order was made in cash to the holder within thirty days after notice and a written demand for payment, deposited as certified or registered mail in the United States mail, **or by regular mail, supported by an affidavit of service by mailing, notice deemed conclusive three days following the date the affidavit is executed,** and addressed to the maker and to the endorser, if any, of the check, draft, or order at each of their addresses as it appears on the check, draft, or order or to the last known address, shall, in addition to the face amount owing upon such check, draft, or order, be liable to the holder for three times the face amount owed or one hundred dollars, whichever is greater, plus attorney fees incurred in bringing an action pursuant to this section. Only the original holder, whether the holder is a person, bank, savings and loan association, credit union, or other depository, financial institution, firm or corporation, may bring an action [under] **pursuant to** this section. No original holder

shall bring an action pursuant to this section if the original holder has been paid the face amount of the check and costs recovered by the prosecuting attorney or circuit attorney pursuant to subsection 6 of section 570.120. If the issuer of the check has paid the face amount of the check and costs pursuant to subsection 6 of section 570.120, such payment shall be an affirmative defense to any action brought pursuant to this section. The original holder shall elect to bring an action [under] **pursuant to** this section or section 570.120, but may not bring an action [under] **pursuant to** both sections. In no event shall the damages allowed [under] **pursuant to** this section exceed five hundred dollars, exclusive of attorney fees. In situations involving payroll checks, the damages allowed [under] **pursuant to** this section shall only be assessed against the employer who issued the payroll check and not against the employee to whom the payroll check was issued. The provisions of sections 408.140 and 408.233, RSMo, to the contrary notwithstanding, a lender may bring an action pursuant to this section. The provisions of this section will not apply in cases where there exists a bona fide dispute over the quality of goods sold or services rendered.

570.125. FRAUDULENTLY STOPPING PAYMENT ON AN INSTRUMENT, PENALTIES. — 1.

A person commits the crime of "fraudulently stopping payment of an instrument" if he, knowingly, with the purpose to defraud, stops payment on a check or draft given in payment for the receipt of goods or services.

2. Fraudulently stopping payment of an instrument is a class A misdemeanor, unless the face amount of the check or draft is [one hundred fifty] **five hundred** dollars or more or, if the stopping of payment of more than one check or draft is involved in the same course of conduct, the aggregate amount is [one hundred fifty] **five hundred** dollars or more, in which case the offense is a class D felony.

3. It shall be prima facie evidence of a violation of this section, if a person stops payment on a check or draft and fails to make good the check or draft, or return or make and comply with reasonable arrangements to return the property for which the check or draft was given in the same or substantially the same condition as when received within ten days after notice in writing from the payee that the check or draft has not been paid because of a stop payment order by the issuer to the drawee.

4. "Notice in writing" means notice deposited as certified or registered mail in the United States mail and addressed to the issuer at his address as it appears on the dishonored check or draft or to his last known address. The notice shall contain a statement that failure to make good the check or draft within ten days of receipt of the notice may subject the issuer to criminal prosecution.

570.130. FRAUDULENT USE OF A CREDIT DEVICE OR DEBIT DEVICE — PENALTY. — 1.

A person commits the crime of fraudulent use of a credit device or debit device if the person uses a credit device or debit device for the purpose of obtaining services or property, knowing that:

- (1) The device is stolen, fictitious or forged; or
- (2) The device has been revoked or canceled; or
- (3) For any other reason his use of the device is unauthorized.

2. Fraudulent use of a credit device or debit device is a class A misdemeanor unless the value of the property or services obtained or sought to be obtained within any thirty-day period is [one hundred fifty] **five hundred** dollars or more, in which case fraudulent use of a credit device or debit device is a class D felony.

570.210. LIBRARY THEFT, PENALTY. — 1. A person commits the crime of library theft if with the purpose to deprive, he:

- (1) Knowingly removes any library material from the premises of a library without authorization; or

(2) Borrows or attempts to borrow any library material from a library by use of a library card:

- (a) Without the consent of the person to whom it was issued; or
- (b) Knowing that the library card is revoked, canceled or expired; or
- (c) Knowing that the library card is falsely made, counterfeit or materially altered; or

(3) Borrows library material from any library pursuant to an agreement or procedure established by the library which requires the return of such library material and, with the purpose to deprive the library of the library material, fails to return the library material to the library.

2. It shall be prima facie evidence of the person's purpose to deprive the library of the library materials if, within ten days after notice in writing deposited as certified mail from the library demanding the return of such library material, he without good cause shown fails to return the library material. A person is presumed to have received the notice required by this subsection if the library mails such notice to the last address provided to the library by such person.

3. The crime of library theft is a class C felony if the value of the library material is [one hundred and fifty] **five hundred** dollars or more; otherwise, library theft is a class C misdemeanor.

570.300. THEFT OF CABLE TELEVISION SERVICE, PENALTY. — 1. A person commits the crime of theft of cable television service if he:

(1) Knowingly obtains or attempts to obtain cable television service without paying all lawful compensation to the operator of such service, by means of artifice, trick, deception or device; or

(2) Knowingly assists another person in obtaining or attempting to obtain cable television service without paying all lawful compensation to the operator of such service; or

(3) Knowingly connects to, tampers with or otherwise interferes with any cables, wires or other devices used for the distribution of cable television if the effect of such action is to obtain cable television without paying all lawful compensation therefor; or

(4) Knowingly sells, uses, manufactures, rents or offers for sale, rental or use any device, plan or kit designed and intended to obtain cable television service in violation of this section.

2. Theft of cable television service is a class C felony if the value of the service appropriated is [one hundred fifty] **five hundred** dollars or more; otherwise theft of cable television services is a class A misdemeanor.

3. Any cable television operator may bring an action to enjoin and restrain any violation of the provisions of this section or bring an action for conversion. In addition to any actual damages, an operator may be entitled to punitive damages and reasonable attorney fees in any case in which the court finds that the violation was committed willfully and for purposes of commercial advantage. In the event of a defendant's verdict the defendant may be entitled to reasonable attorney fees.

4. The existence on the property and in the actual possession of the accused of any connection wire, or conductor, which is connected in such a manner as to permit the use of cable television service without the same being reported for payment to and specifically authorized by the operator of the cable television service shall be sufficient to support an inference which the trial court may submit to the trier of fact, from which the trier of fact may conclude that the accused has committed the crime of theft of cable television service.

5. If a cable television company either:

(1) Provides unsolicited cable television service; or

(2) Fails to change or disconnect cable television service within ten days after receiving written notice to do so by the customer, the customer may deem such service to be a gift without any obligation to the cable television company from ten days after such written notice is received until the service is changed or disconnected.

6. Nothing in this section shall be construed to render unlawful or prohibit an individual or other legal entity from owning or operating a video cassette recorder or devices commonly

known as a "satellite receiving dish" for the purpose of receiving and utilizing satellite-relayed television signals for his own use.

7. As used in this section, the term "cable television service" includes microwave television transmission from a multipoint distribution service not capable of reception by conventional television receivers without the use of special equipment.

578.150. FAILURE TO RETURN RENTED PERSONAL PROPERTY — PRIMA FACIE EVIDENCE, WHEN — LAW ENFORCEMENT PROCEDURE — PENALTY — VENUE — NOTICE, CONTENTS — EXCEPTION. — 1. A person commits the crime of failing to return leased or rented property if, with the intent to deprive the owner thereof, he purposefully fails to return leased or rented personal property to the place and within the time specified in an agreement in writing providing for the leasing or renting of such personal property. In addition, any person who has leased or rented personal property of another who conceals the property from the owner, or who otherwise sells, pawns, loans, abandons or gives away the leased or rented property is guilty of the crime of failing to return leased or rented property. The provisions of this section shall apply to all forms of leasing and rental agreements, including, but not limited to, contracts which provide the consumer options to buy the leased or rented personal property, lease-purchase agreements and rent-to-own contracts. For the purpose of determining if a violation of this section has occurred, leasing contracts which provide options to buy the merchandise are owned by the owner of the property until such time as the owner endorses the sale and transfer of ownership of the leased property to the lessee.

2. It shall be prima facie evidence of the crime of failing to return leased or rented property when a person who has leased or rented personal property of another willfully fails to return or make arrangements acceptable with the lessor to return the personal property to its owner at the owner's place of business within ten days after proper notice following the expiration of the lease or rental agreement, except that if the motor vehicle has not been returned within seventy-two hours after the expiration of the lease or rental agreement, such failure to return the motor vehicle shall be prima facie evidence of the intent of the crime of failing to return leased or rented property. Where the leased or rented property is a motor vehicle, if the motor vehicle has not been returned within seventy-two hours after the expiration of the lease or rental agreement, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle, and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles. Any law enforcement officer which stops such a motor vehicle may seize the motor vehicle and notify the lessor that he may recover such motor vehicle after it is photographed and its vehicle identification number is recorded for evidentiary purposes. Where the leased or rented property is not a motor vehicle, if such property has not been returned within the ten-day period prescribed in this subsection, the owner of the property shall report the failure to return the property to the local law enforcement agency, and such law enforcement agency may within five days notify the person who leased or rented the property that such person is in violation of this section, and that failure to immediately return the property may subject such person to arrest for the violation.

3. This section shall not apply if such personal property is a vehicle and such return is made more difficult or expensive by a defect in such vehicle which renders such vehicle inoperable, if the lessee shall notify the lessor of the location of such vehicle and such defect before the expiration of the lease or rental agreement, or within ten days after proper notice.

4. Proper notice by the lessor shall consist of a written demand addressed and mailed by certified or registered mail to the lessee at the address given at the time of making the lease or rental agreement. The notice shall contain a statement that the failure to return the property may subject the lessee to criminal prosecution.

5. Any person who has leased or rented personal property of another who destroys such property so as to avoid returning it to the owner shall be guilty of property damage pursuant to section 569.100 or 569.120, RSMo, in addition to being in violation of this section.

6. Venue shall lie in the county where the personal property was originally rented or leased.

7. Failure to return leased or rented property is a class A misdemeanor unless the property involved has a value of [one hundred fifty] **five hundred** dollars or more, in which case failing to return leased or rented property is a class C felony.

578.377. UNLAWFUL RECEIPT OF FOOD STAMPS OR ATP CARDS — GRADES OF OFFENSE, PENALTY. — 1. A person commits the crime of unlawfully receiving food stamp coupons or ATP cards if he knowingly receives or uses the proceeds of food stamp coupons or ATP cards to which he is not lawfully entitled or for which he has not applied and been approved by the department to receive.

2. Unlawfully receiving food stamp coupons or ATP cards is a class D felony unless the face value of the food stamp coupon or ATP cards is less than [one hundred fifty] **five hundred** dollars, in which case unlawful receiving of food stamp coupons and ATP cards is a class A misdemeanor.

578.379. UNLAWFUL CONVERSION OF FOOD STAMPS OR ATP CARDS — GRADES OF OFFENSE, PENALTY. — 1. A person commits the crime of conversion of food stamp coupons or ATP cards if he knowingly engages in any transaction to convert food stamp coupons or ATP cards to other property contrary to statutes, rules and regulations, either state or federal, governing the food stamp program.

2. Unlawful conversion of food stamp coupons or ATP cards is a class D felony unless the face value of said food stamp coupons or ATP cards is less than [one hundred fifty] **five hundred** dollars, in which case unlawful conversion of food stamp coupons or ATP cards is a class A misdemeanor.

578.381. UNLAWFUL TRANSFER OF FOOD STAMPS OR ATP CARDS — GRADES OF OFFENSE, PENALTY. — 1. A person commits the crime of unlawful transfer of food stamp coupons or ATP cards if he knowingly transfers food stamp coupons or ATP cards to another not lawfully entitled or approved by the department to receive the food stamp coupons or ATP cards.

2. Unlawful transfer of food stamp coupons or ATP cards is a class D felony unless the face value of said food stamp coupons or ATP cards is less than [one hundred fifty] **five hundred** dollars, in which case unlawful transfer of food stamp coupons or ATP cards is a class A misdemeanor.

578.385. PERJURY — COMMITTED WHEN OBTAINING PUBLIC ASSISTANCE, PENALTY. —

1. A person commits the crime of perjury for the purpose of this section if he knowingly makes a false or misleading statement or misrepresents a fact material for the purpose of obtaining public assistance if the false or misleading statement is reduced to writing and verified by the signature of the person making the statement and by the signature of any employee of the Missouri department of social services. The same person may not be charged with unlawfully receiving public assistance benefits and perjury [under] **pursuant to** this section when both offenses arise from the same application for benefits.

2. A statement or fact is material, regardless of its admissibility under rules of evidence, if it could substantially affect or did substantially affect the granting of public assistance.

3. Knowledge of the materiality of the statement or fact is not an element of this crime, and it is no defense that:

(1) The defendant mistakenly believed the fact to be immaterial; or

(2) The defendant was not competent, for reasons other than mental disability, to make the statement.

4. Perjury committed as part of a transaction involving the making of an application to obtain public assistance is a class D felony unless the value of the public assistance unlawfully

obtained or unlawfully attempted to be obtained is less than [one hundred fifty] **five hundred** dollars in which case it is a class A misdemeanor.

SECTION B. SEVERABILITY CLAUSE. — If any provision of this act or the application thereof to anyone or to any circumstances is held invalid, the remainder of those sections and the application of such provisions to others or other circumstances shall not be affected thereby.

Approved July 11, 2002

HB 1890 [SCS HB 1890]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes procedures for mobile telecommunications services.

AN ACT to repeal sections 32.087 and 144.190, RSMo, and to enact in lieu thereof three new sections relating to the sales tax and refund procedures related to mobile telecommunications services, with an emergency clause.

SECTION

- A. Enacting clause.
- 32.087. Local sales taxes, procedures and duties of director of revenue, generally — effective date of tax — duty of retailers — exemptions — discounts allowed — penalties — motor vehicle and boat sales — bond required — annual report of director, contents — reapproval, effect, procedures.
- 144.013. Tax imposed in accordance with federal Mobile Telecommunications Sourcing Act.
- 144.190. Refund of overpayments — claim for refund — time for making claims — paid to whom — direct pay agreement for certain purchasers — special rules for error corrections.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 32.087 and 144.190, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 32.087, 144.013 and 144.190, to read as follows:

32.087. LOCAL SALES TAXES, PROCEDURES AND DUTIES OF DIRECTOR OF REVENUE, GENERALLY — EFFECTIVE DATE OF TAX — DUTY OF RETAILERS — EXEMPTIONS — DISCOUNTS ALLOWED — PENALTIES — MOTOR VEHICLE AND BOAT SALES — BOND REQUIRED — ANNUAL REPORT OF DIRECTOR, CONTENTS — REAPPROVAL, EFFECT, PROCEDURES. — 1. Within ten days after the adoption of any ordinance or order in favor of adoption of any local sales tax authorized under the local sales tax law by the voters of a taxing entity, the governing body or official of such taxing entity shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance or order. The ordinance or order shall reflect the effective date thereof.

2. Any local sales tax so adopted shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of adoption of the local sales tax, except as provided in subsection 18 of this section.

3. Every retailer within the jurisdiction of one or more taxing entities which has imposed one or more local sales taxes under the local sales tax law shall add all taxes so imposed along with the tax imposed by the sales tax law of the state of Missouri to the sale price and, when

added, the combined tax shall constitute a part of the price, and shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. The combined rate of the state sales tax and all local sales taxes shall be the sum of the rates, multiplying the combined rate times the amount of the sale.

4. The brackets required to be established by the director of revenue under the provisions of section 144.285, RSMo, shall be based upon the sum of the combined rate of the state sales tax and all local sales taxes imposed under the provisions of the local sales tax law.

5. The ordinance or order imposing a local sales tax under the local sales tax law shall impose upon all sellers a tax for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in sections 144.010 to 144.525, RSMo, and the rules and regulations of the director of revenue issued pursuant thereto; except that the rate of the tax shall be the sum of the combined rate of the state sales tax or state highway use tax and all local sales taxes imposed under the provisions of the local sales tax law.

6. On and after the effective date of any local sales tax imposed under the provisions of the local sales tax law, the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the director of revenue shall collect in addition to the sales tax for the state of Missouri all additional local sales taxes authorized under the authority of the local sales tax law. All local sales taxes imposed under the local sales tax law together with all taxes imposed under the sales tax law of the state of Missouri shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue.

7. All applicable provisions contained in sections 144.010 to 144.525, RSMo, governing the state sales tax and section 32.057, the uniform confidentiality provision, shall apply to the collection of any local sales tax imposed under the local sales tax law except as modified by the local sales tax law.

8. All exemptions granted to agencies of government, organizations, persons and to the sale of certain articles and items of tangible personal property and taxable services under the provisions of sections 144.010 to 144.525, RSMo, as these sections now read and as they may hereafter be amended, it being the intent of this general assembly to ensure that the same sales tax exemptions granted from the state sales tax law also be granted under the local sales tax law, are hereby made applicable to the imposition and collection of all local sales taxes imposed under the local sales tax law.

9. The same sales tax permit, exemption certificate and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of the local sales tax law, and no additional permit or exemption certificate or retail certificate shall be required; except that the director of revenue may prescribe a form of exemption certificate for an exemption from any local sales tax imposed by the local sales tax law.

10. All discounts allowed the retailer under the provisions of the state sales tax law for the collection of and for payment of taxes under the provisions of the state sales tax law are hereby allowed and made applicable to any local sales tax collected under the provisions of the local sales tax law.

11. The penalties provided in section 32.057 and sections 144.010 to 144.525, RSMo, for a violation of the provisions of those sections are hereby made applicable to violations of the provisions of the local sales tax law.

12. (1) For the purposes of any local sales tax imposed by an ordinance or order under the local sales tax law, all sales, except the sale of motor vehicles, trailers, boats, and outboard motors, shall be deemed to be consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination. In the event a retailer has more than one place of business in this state which participates in the sale, the sale shall be deemed to be consummated at the place of business of

the retailer where the initial order for the tangible personal property is taken, even though the order must be forwarded elsewhere for acceptance, approval of credit, shipment or billing. A sale by a retailer's agent or employee shall be deemed to be consummated at the place of business from which he works.

(2) For the purposes of any local sales tax imposed by an ordinance or order under the local sales tax law, all sales of motor vehicles, trailers, boats, and outboard motors shall be deemed to be consummated at the residence of the purchaser and not at the place of business of the retailer, or the place of business from which the retailer's agent or employee works.

(3) For the purposes of any local tax imposed by an ordinance or under the local sales tax law on charges for mobile telecommunications services, all taxes of mobile telecommunications service shall be imposed as provided in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sections 116 through 124, as amended.

13. Local sales taxes imposed pursuant to the local sales tax law on the purchase and sale of motor vehicles, trailers, boats, and outboard motors shall not be collected and remitted by the seller, but shall be collected by the director of revenue at the time application is made for a certificate of title, if the address of the applicant is within a taxing entity imposing a local sales tax under the local sales tax law.

14. The director of revenue and any of his deputies, assistants and employees who have any duties or responsibilities in connection with the collection, deposit, transfer, transmittal, disbursement, safekeeping, accounting, or recording of funds which come into the hands of the director of revenue under the provisions of the local sales tax law shall enter a surety bond or bonds payable to any and all taxing entities in whose behalf such funds have been collected under the local sales tax law in the amount of one hundred thousand dollars for each such tax; but the director of revenue may enter into a blanket bond covering himself and all such deputies, assistants and employees. The cost of any premium for such bonds shall be paid by the director of revenue from the share of the collections under the sales tax law retained by the director of revenue for the benefit of the state.

15. The director of revenue shall annually report on his management of each trust fund which is created under the local sales tax law and administration of each local sales tax imposed under the local sales tax law. He shall provide each taxing entity imposing one or more local sales taxes authorized by the local sales tax law with a detailed accounting of the source of all funds received by him for the taxing entity. Notwithstanding any other provisions of law, the state auditor shall annually audit each trust fund. A copy of the director's report and annual audit shall be forwarded to each taxing entity imposing one or more local sales taxes.

16. Within the boundaries of any taxing entity where one or more local sales taxes have been imposed, if any person is delinquent in the payment of the amount required to be paid by him under the local sales tax law or in the event a determination has been made against him for taxes and penalty under the local sales tax law, the limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to 144.525, RSMo. Where the director of revenue has determined that suit must be filed against any person for the collection of delinquent taxes due the state under the state sales tax law, and where such person is also delinquent in payment of taxes under the local sales tax law, the director of revenue shall notify the taxing entity to which delinquent taxes are due under the local sales tax law by United States registered mail or certified mail at least ten days before turning the case over to the attorney general. The taxing entity, acting through its attorney, may join in such suit as a party plaintiff to seek a judgment for the delinquent taxes and penalty due such taxing entity. In the event any person fails or refuses to pay the amount of any local sales tax due, the director of revenue shall promptly notify the taxing entity to which the tax would be due so that appropriate action may be taken by the taxing entity.

17. Where property is seized by the director of revenue under the provisions of any law authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed by the state sales tax law, and where such taxpayer is also delinquent in payment of any

tax imposed by the local sales tax law, the director of revenue shall permit the taxing entity to join in any sale of property to pay the delinquent taxes and penalties due the state and to the taxing entity under the local sales tax law. The proceeds from such sale shall first be applied to all sums due the state, and the remainder, if any, shall be applied to all sums due such taxing entity.

18. If a local sales tax has been in effect for at least one year under the provisions of the local sales tax law and voters approve reimposition of the same local sales tax at the same rate at an election as provided for in the local sales tax law prior to the date such tax is due to expire, the tax so reimposed shall become effective the first day of the first calendar quarter after the director receives a certified copy of the ordinance, order or resolution accompanied by a map clearly showing the boundaries thereof and the results of such election, provided that such ordinance, order or resolution and all necessary accompanying materials are received by the director at least thirty days prior to the expiration of such tax. Any administrative cost or expense incurred by the state as a result of the provisions of this subsection shall be paid by the city or county reimposing such tax.

144.013. TAX IMPOSED IN ACCORDANCE WITH FEDERAL MOBILE TELECOMMUNICATIONS SOURCING ACT. — Notwithstanding any other provision of this chapter, the tax imposed on mobile telecommunications services pursuant to section 144.020 shall be imposed in accordance with the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. Sections 116 through 124, as amended. All terms used in this section shall have the same meaning attributed to them by the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. 124, as amended.

144.190. REFUND OF OVERPAYMENTS — CLAIM FOR REFUND — TIME FOR MAKING CLAIMS — PAID TO WHOM — DIRECT PAY AGREEMENT FOR CERTAIN PURCHASERS — SPECIAL RULES FOR ERROR CORRECTIONS. — 1. If a tax has been incorrectly computed by reason of a clerical error or mistake on the part of the director of revenue, such fact shall be set forth in the records of the director of revenue, and the amount of the overpayment shall be credited on any taxes then due from the person legally obligated to remit the tax pursuant to sections 144.010 to 144.525, and the balance shall be refunded to the person legally obligated to remit the tax, such person's administrators or executors, as provided for in section 144.200.

2. If any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected, or has been erroneously or illegally computed, such sum shall be credited on any taxes then due from the person legally obligated to remit the tax pursuant to sections 144.010 to [144.510] **144.525**, and the balance, with interest as determined by section 32.065, RSMo, shall be refunded to the person legally obligated to remit the tax, but no such credit or refund shall be allowed unless duplicate copies of a claim for refund are filed within three years from date of overpayment.

3. Every claim for refund must be in writing and signed by the applicant, and must state the specific grounds upon which the claim is founded. Any refund or any portion thereof which is erroneously made, and any credit or any portion thereof which is erroneously allowed, may be recovered in any action brought by the director of revenue against the person legally obligated to remit the tax. In the event that a tax has been illegally imposed against a person legally obligated to remit the tax, the director of revenue shall authorize the cancellation of the tax upon the director's record.

4. Notwithstanding the provisions of this section, the director of revenue shall authorize direct-pay agreements to purchasers which have annual purchases in excess of seven hundred fifty thousand dollars pursuant to rules and regulations adopted by the director of revenue. For the purposes of such direct-pay agreements, the taxes authorized pursuant to chapters 66, 67, [92 and] **70, 92, 94, 162, 190, 238, 321, and 644**, RSMo, shall be remitted based upon the location of the place of business of the purchaser.

5. Special rules applicable to error corrections requested by customers of mobile telecommunications service are as follows:

(1) For purposes of this subsection, the terms "customer", "home service provider", "place of primary use", "electronic database", and "enhanced zip code" shall have the same meanings as defined in the Mobile Telecommunications Sourcing Act incorporated by reference in section 144.013;

(2) Notwithstanding the provisions of this section, if a customer of mobile telecommunications services believes that the amount of tax, the assignment of place of primary use or the taxing jurisdiction included on a billing is erroneous, the customer shall notify the home service provider, in writing, within three years from the date of the billing statement. The customer shall include in such written notification the street address for the customer's place of primary use, the account name and number for which the customer seeks a correction of the tax assignment, a description of the error asserted by the customer and any other information the home service provider reasonably requires to process the request;

(3) Within sixty days of receiving the customer's notice, the home service provider shall review its records and the electronic database or enhanced zip code to determine the customer's correct taxing jurisdiction. If the home service provider determines that the review shows that the amount of tax, assignment of place of primary use or taxing jurisdiction is in error, the home service provider shall correct the error and, at its election, either refund or credit the amount of tax erroneously collected to the customer for a period of up to three years from the last day of the home service provider's sixty-day review period. If the home service provider determines that the review shows that the amount of tax, the assignment of place of primary use or the taxing jurisdiction is correct, the home service provider shall provide a written explanation of its determination to the customer.

SECTION B. EMERGENCY CLAUSE. — Because of the need to continue telecommunications services, this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval, or August 1, 2002, whichever later occurs.

Approved July 11, 2002

HB 1895 [HB 1895]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes the Criminal Records and Justice Information Advisory Committee.

AN ACT to repeal section 43.518, RSMo, and to enact in lieu thereof one new section relating to the criminal records and justice information advisory committee.

SECTION

A. Enacting clause.

43.518. Criminal records and justice information advisory committee, established — purpose — members — meetings, quorum — minutes, distribution, filing of.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 43.518, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 43.518, to read as follows:

43.518. CRIMINAL RECORDS AND JUSTICE INFORMATION ADVISORY COMMITTEE, ESTABLISHED — PURPOSE — MEMBERS — MEETINGS, QUORUM — MINUTES, DISTRIBUTION, FILING OF. — 1. There is hereby established within the department of public safety a "Criminal Records and Justice Information Advisory Committee" whose purpose is to:

(1) Recommend general policies with respect to the philosophy, concept and operational principles of the Missouri criminal history record information system established by sections 43.500 to 43.530, in regard to the collection, processing, storage, dissemination and use of criminal history record information maintained by the central repository[.];

(2) **Assess the current state of electronic justice information sharing; and**

(3) **Recommend policies and strategies, including standards and technology, for promoting electronic justice information sharing, and coordinating among the necessary agencies and institutions; and**

(4) **Provide guidance regarding the use of any state or federal funds appropriated for promoting electronic justice information sharing.**

2. The committee shall be composed of the following officials or their designees: the director of the department of public safety; the director of the department of corrections and human resources; the attorney general; the director of the Missouri office of prosecution services; the president of the Missouri prosecutors association; the president of the Missouri court clerks association; the chief clerk of the Missouri state supreme court; the director of the state courts administrator; the chairman of the state judicial record committee; the chairman of the circuit court budget committee; the presidents of the Missouri peace officers association; the Missouri sheriffs association; the Missouri police chiefs association or their successor agency; the superintendent of the Missouri highway patrol; the chiefs of police of agencies in jurisdictions with over two hundred thousand population; except that, in any county of the first class having a charter form of government, the chief executive of the county may designate another person in place of the police chief of any countywide police force, to serve on the committee; and, at the discretion of the director of public safety, as many as three other representatives of other criminal justice records systems or law enforcement agencies may be appointed by the director of public safety. The director of the department of public safety will serve as the permanent chairman of this committee.

3. The committee shall meet as determined by the director but not less than semiannually to perform its duties. A majority of the appointed members of the committee shall constitute a quorum.

4. No member of the committee shall receive any state compensation for the performance of duties associated with membership on this committee.

5. Official minutes of all committee meetings will be prepared by the director, promptly distributed to all committee members, and filed by the director for a period of at least five years.

Approved July 12, 2002

HB 1921 [SCS HB 1921]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the Director of the Division of Credit Unions to examine certain qualifying credit unions at least once every eighteen months.

AN ACT to repeal sections 370.061 and 370.120, RSMo, and to enact in lieu thereof two new sections relating to credit unions.

SECTION

A. Enacting clause.

370.061. Credit union commission, created, members, term, compensation — credit union representative defined.

370.120. Annual examination or audit report, exception — subpoena power.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 370.061 and 370.120, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 370.061 and 370.120, to read as follows:

370.061. CREDIT UNION COMMISSION, CREATED, MEMBERS, TERM, COMPENSATION — CREDIT UNION REPRESENTATIVE DEFINED. — 1. There is created in the division of credit unions a "Credit Union Commission" which shall have such powers and duties as are now or hereafter conferred upon it by law.

2. The commission shall consist of seven members who shall be appointed by the governor with the advice and consent of the senate. All members shall be residents of this state, and one of them shall be a member of the Missouri Bar in good standing. Four other members of the commission shall [each have had] **be credit union representatives. As used in this section, the term "credit union representative" shall mean a member of the commission who has** at least five years' experience in this state as an officer, director or member of a supervisory committee of one or more credit unions and two members shall be lay members who are not involved in the administration of a financial institution. Not more than four members of the commission shall be members of the same political party.

3. [The term of office of each member of the commission shall be six years.] **Effective March 25, 2005, the first three commissioners appointed, two of whom shall be credit union representatives, shall have a term expiring January 1, 2007. The next two commissioners appointed, one of whom shall be a credit union representative, shall have a term expiring January 1, 2009. The final two commissioners appointed, one of whom shall be a credit union representative, and all subsequent commissioners shall serve a six-year term.** Members shall serve until their successors are duly appointed and have qualified. Each member of the credit union commission shall serve for the remainder of the term for which the member was appointed to the commission. The commission shall select its own chairman and secretary. Vacancies in the commission shall be filled for the unexpired term in the same manner as in the case of an original appointment.

4. The members of the commission shall receive as compensation the sum of one hundred dollars per day while discharging their duties, and they shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

5. A majority of the members of the commission shall constitute a quorum and the decision of a majority of a quorum shall be the decision of the commission. The commission shall meet upon call of its chairman, or of the director of the division of credit unions, or of any three members of the commission, and may meet at any place in this state.

370.120. ANNUAL EXAMINATION OR AUDIT REPORT, EXCEPTION — SUBPOENA POWER. — 1. The director of the division of credit unions, in person or by his **or her** agents, shall examine each credit union annually and at other times as he **or she** shall direct, and at all times shall have free access to all books, papers, securities and other sources of information pertaining to the credit union; **except that the division of credit unions shall examine qualifying credit unions, as determined by the director, at least once each eighteen calendar months.**

2. The director of the division of credit unions and his **or her** agents may subpoena and examine witnesses under oath or affirmation, and documents pertaining to the business of the credit unions.

3. The director of the division of credit unions may accept, in lieu of making an annual examination of a credit union, an audit report of the condition of the credit union made by an auditor approved by the director of the division of credit unions for the purpose of making such credit union audits, the cost of which audit shall be borne by the credit union.

Approved July 3, 2002

HB 1926 [HB 1926]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Extends the expiration date on the Children's Health Insurance Program to July 1, 2007.

AN ACT to repeal sections 208.631 and 208.660, RSMo, and to enact in lieu thereof one new section relating to the extension of the termination date of the children's health program, with an emergency clause.

SECTION

A. Enacting clause.

208.631. Program established, terminates, when — definitions.

208.660. Children's health program outreach funding.

B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 208.631 and 208.660, RSMo, are repealed and one new section enacted in lieu thereof, to be known as section 208.631, to read as follows:

208.631. PROGRAM ESTABLISHED, TERMINATES, WHEN — DEFINITIONS. — 1. Notwithstanding any other provision of law to the contrary, the department of social services shall establish a program to pay for health care for uninsured children. Coverage pursuant to sections 208.631 to 208.660 is subject to appropriation. The provisions of sections 208.631 to 208.657 shall be void and of no effect after July 1, [2002] **2007**.

2. For the purposes of sections 208.631 to 208.657, "children" are persons up to nineteen years of age. "Uninsured children" are persons up to nineteen years of age who **are emancipated and do not have access to affordable employer-subsidized health care insurance or other health care coverage or persons whose parent or guardian** have not had access to **affordable** employer-subsidized health care insurance or other health care coverage **for their children** for six months prior to application, are residents of the state of Missouri, and have parents or guardians who meet the requirements in section 208.636. A child who is eligible for medical assistance as authorized in section 208.151, is not uninsured for the purposes of sections 208.631 to 208.657.

[208.660. CHILDREN'S HEALTH PROGRAM OUTREACH FUNDING. — Up to ten percent of any federal funds received pursuant to the provisions of Title XXI of the Social Security Act and up to ten percent of any state funds used to match those federal funds may be used for outreach

through the division of medical services for children's health programs established through sections 208.631 to 208.657. The division of medical services may contract with local public health agencies for purposes of this section. The provisions of this section shall be subject to appropriations.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure that the children of the state of Missouri continue to receive medical insurance coverage, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 5, 2002

HB 1937 [HB 1937]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various provisions for the licensure of clinical perfusionists.

AN ACT to repeal sections 324.147, 324.150 and 324.171, RSMo, and to enact in lieu thereof three new sections relating to the licensure of clinical perfusionists.

SECTION

A. Enacting clause.

324.147. Issuance of a license by the board, when — provisional license, when.

324.150. Waiver of examination and education requirements by the board, when.

324.171. Refusal to issue a certificate of registration or authority, permit, or license, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 324.147, 324.150 and 324.171, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 324.147, 324.150 and 324.171, to read as follows:

324.147. ISSUANCE OF A LICENSE BY THE BOARD, WHEN — PROVISIONAL LICENSE, WHEN. — 1. A license as a provisional licensed clinical perfusionist may be issued by the board to a person who has successfully completed an approved perfusion education program and upon the filing of an application, payment of an application fee and the submission of evidence satisfactory to the board of the successful completion of the education requirements as provided in section 324.136.

2. A license as a provisional licensed clinical perfusionist may also be issued by the board to a person who has held a certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion, or its successor, if the person's certificate lapsed for reasons other than disciplinary action by the American Board of Cardiovascular Perfusion. The board shall adopt rules to ensure that the person is actively seeking to obtain a current certification by the American Board of Cardiovascular Perfusion as a means of obtaining a license as a clinical perfusionist pursuant to subdivision (2) of section 324.150.

3. A provisional licensed clinical perfusionist shall be under supervision and direction of a licensed clinical perfusionist at all times during which the provisional licensed clinical perfusionist performs perfusion. The board may adopt rules governing such supervision and direction which do not require the immediate physical presence of the supervising licensed clinical perfusionist.

[3.] 4. A provisional license shall be valid for one year from the date it is issued and may be renewed, subject to rules adopted by the board, by the same procedures established for the renewal of licenses pursuant to section 324.144, if the application for renewal is signed by a supervising licensed clinical perfusionist.

[4. If the person] 5. **If a provisional licensed clinical perfusionist who obtains a provisional license pursuant to subsection 1 of this section** fails any portion of the licensure examination, such person shall surrender the person's provisional license to the board.

324.150. WAIVER OF EXAMINATION AND EDUCATION REQUIREMENTS BY THE BOARD, WHEN. — On receipt of an application and application fee, the board may waive the examination and educational requirements for an applicant who at the time of application:

(1) Is appropriately licensed or certified by another state, territory or possession of the United States, if the requirements of such state, territory or possession for the license or certificate are substantially equivalent to the requirements of sections 324.125 to 324.183 as determined by the board; or

(2) Holds a current certificate as a certified clinical perfusionist **initially** issued by the American Board of Cardiovascular Perfusion, or its successor, prior to August 28, 1997.

324.171. REFUSAL TO ISSUE A CERTIFICATE OF REGISTRATION OR AUTHORITY, PERMIT, OR LICENSE, WHEN. — [The board shall revoke or suspend a license, place on probation a person whose license has been suspended or reprimand a license holder if there is proof of] 1. **The board may refuse to issue any certificate of registration or authority, permit, or license required by sections 324.125 to 324.183 for one or any combination of causes listed in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided in chapter 621, RSMo.**

2. **The board may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621, RSMo, against any holder of any certificate of registration or authority, permit, or license required by sections 324.125 to 324.183 or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit, or license for any one or combination of the following causes:**

- (1) Any violation of sections 324.125 to 324.183;
- (2) Any violation of a rule or code of ethics adopted by the board; or
- (3) Unprofessional conduct, which includes, but is not limited to, the following:
 - (a) Incompetence or gross negligence in carrying out usual perfusion functions;
 - (b) A conviction of practicing perfusion without a license or a provisional license;
 - (c) The use of advertising relating to perfusion in a way that violates state law;
 - (d) Procuring a license or provisional license by fraud, misrepresentation or mistake;
 - (e) Making or giving any false statement or information in connection with the application for a license or provisional license;
 - (f) Conviction of a felony or of any offense substantially related to the qualifications, functions and duties of a perfusionist, in which event the record of the conviction shall be conclusive evidence of such offense; or

(g) Impersonating an applicant or acting as proxy for an applicant in any examination required pursuant to sections 324.125 to 324.183 for the issuance of a license.

3. **After the filing of such complaint, the proceedings shall be conducted in accordance with chapter 621, RSMo. Upon a finding by the administrative hearing**

commission that the grounds in subsection 2 of this section for disciplinary action are met, the board may, singly or in combination:

(1) Reprimand or place the person on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years; or

(2) Suspend the person's license, certificate, or permit for a period not to exceed three years; or

(3) Revoke the person's license, certificate, or permit.

Approved July 2, 2002

HB 1953 [CCS SCS HB 1953]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Clarifies that the reimbursement of Department of Health and Senior Services advisory committees shall be subject to appropriations.

AN ACT to repeal sections 190.101, 191.305, 192.707, 192.712, 192.745, 197.272, 197.450, 344.060 and 701.302, RSMo, and to enact in lieu thereof nine new sections relating to various advisory offices of the department of health and senior services.

SECTION

A. Enacting clause.

190.101. State advisory council on emergency medical services, members, purpose, duties.

191.305. Missouri genetic advisory committee created — purpose — appointment, terms — qualifications — expenses.

192.707. Arthritis advisory board established — members — terms — appointment — vacancies — meetings — chairman, term — duties — reports — reimbursement of expenses.

192.712. Expenses of board and committee members to be paid, subject to appropriations.

192.745. Advisory council established — members — terms — appointment — meetings — expenses — chairman — duties — reports.

197.272. State hospice advisory council established — members, qualifications — appointment, terms, reappointment — compensation — duties.

197.450. Home health services advisory council — members — terms, qualifications — appointment — vacancies — expenses.

344.060. Board, membership, qualifications, terms, removed how, hearing.

701.302. Advisory committee on lead poisoning established — members — report, recommendations — compensation.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 190.101, 191.305, 192.707, 192.712, 192.745, 197.272, 197.450, 344.060 and 701.302, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 190.101, 191.305, 192.707, 192.712, 192.745, 197.272, 197.450, 344.060 and 701.302, to read as follows:

190.101. STATE ADVISORY COUNCIL ON EMERGENCY MEDICAL SERVICES, MEMBERS, PURPOSE, DUTIES. — 1. There is hereby established a "State Advisory Council on Emergency Medical Services" which shall consist of fifteen members. The members of the council shall be appointed by the governor with the advice and consent of the senate and shall serve terms of four years. The governor shall designate one of the members as chairperson. The chairperson may appoint subcommittees that include noncouncil members.

2. The state EMS medical directors advisory committee and the regional EMS advisory committees will be recognized as subcommittees of the state advisory council on emergency medical services.

3. The council shall have geographical representation and representation from appropriate areas of expertise in emergency medical services including volunteers, professional organizations involved in emergency medical services, EMT's, paramedics, nurses, firefighters, physicians, ambulance service administrators, hospital administrators and other health care providers concerned with emergency medical services. The regional EMS advisory committees shall serve as a resource for the identification of potential members of the state advisory council on emergency medical services.

4. The members of the council and subcommittees shall serve without compensation except that [the department of health and senior services shall budget] **members of the council shall, subject to appropriations, be reimbursed** for reasonable travel expenses and meeting expenses related to the functions of the council.

5. The purpose of the council is to make recommendations to the governor, the general assembly, and the department on policies, plans, procedures and proposed regulations on how to improve the statewide emergency medical services system. The council shall advise the governor, the general assembly, and the department on all aspects of the emergency medical services system.

191.305. MISSOURI GENETIC ADVISORY COMMITTEE CREATED — PURPOSE — APPOINTMENT, TERMS — QUALIFICATIONS — EXPENSES. — 1. The "Missouri Genetic Advisory Committee", consisting of fifteen members, is hereby created to advise the department in all genetic programs including metabolic disease screening programs, hemophilia, sickle cell anemia, and cystic fibrosis programs. Members of the committee shall be appointed by the governor, by and with the advice and consent of the senate. The first appointments to the committee shall consist of five members to serve three-year terms, five members to serve two-year terms, and five members to serve one-year terms as designated by the governor. Each member of the committee shall serve for a term of three years thereafter.

2. The committee shall be composed of persons who reside in the state of Missouri, and a majority shall be licensed physicians. At least one member shall be a specialist in genetics; at least one member shall be a licensed obstetrician/gynecologist; at least one member shall be a licensed pediatrician in private practice; at least one member shall be a consumer, family member of a consumer or representative of a consumer group; at least one member shall be a licensed physician experienced in the study and treatment of hemophilia; at least one member shall be a specialist in sickle cell anemia; and at least [on] **one** member shall be a specialist in cystic fibrosis.

3. Members of the committee shall not receive any compensation for their services, but they shall, **subject to appropriations**, be reimbursed for actual and necessary expenses incurred in the performance of their duties from funds appropriated for that purpose.

192.707. ARTHRITIS ADVISORY BOARD ESTABLISHED — MEMBERS — TERMS — APPOINTMENT — VACANCIES — MEETINGS — CHAIRMAN, TERM — DUTIES — REPORTS — REIMBURSEMENT OF EXPENSES. — 1. The "Missouri Arthritis Advisory Board" is established within the department of health and senior services, as a continuation of the arthritis advisory board in existence on August 13, 1984. The board shall consist of twenty-five members. The members of the board that are serving on August 13, 1984, shall continue until the expiration of this term. The board shall submit a list of names to the director as recommendations to fill expired terms on the board. The director shall fill each expired membership on the board, each of the appointees to serve for a term of four years and until his successor is appointed and confirmed. Vacancies on the board arising from reasons other than expiration of the member's term shall be filled by the director for the time remaining in the unexpired term.

2. The board shall meet semiannually and at other such times as called by the chairman of the board. The chairman shall be elected from the board membership at the first board meeting, and shall serve as chairman until a new chairman is elected, or until his term on the board expires, whichever occurs first.

3. The board shall serve in an advisory capacity to the committee, and report annually to the department and to the state board of health regarding the implementing of the statewide arthritis plan, making recommendations for necessary changes in content and direction.

4. The board shall be responsible for development and recommendations of guidelines for programs supported under the state arthritis program, and make recommendations on program relevance of grant applications funded under the state arthritis program. The board will make final recommendations to the director regarding programs and grants of the state arthritis program.

5. Any reimbursement of members of the board for their actual and necessary expenses shall be subject to appropriations.

192.712. EXPENSES OF BOARD AND COMMITTEE MEMBERS TO BE PAID, SUBJECT TO APPROPRIATIONS. — Committee and board members shall serve without compensation, but their expenses incurred in carrying out their official duties shall, **subject to appropriations**, be reimbursed by the state.

192.745. ADVISORY COUNCIL ESTABLISHED — MEMBERS — TERMS — APPOINTMENT — MEETINGS — EXPENSES — CHAIRMAN — DUTIES — REPORTS. — 1. The "Missouri Head Injury Advisory Council" is hereby established as created by executive order of the governor on March 5, 1985. The council shall consist of twenty-five members. The members of the council that are serving on August 13, 1986, shall continue serving on the following basis: The two members of the council who are members of the house of representatives and appointed by the speaker of the house of representatives shall serve for the remainder of their terms; the two members of the council who are members of the senate appointed by the president pro tempore of the senate shall serve for the remainder of their terms; and the remaining twenty-one members shall determine by lot which seven are to have a one-year term, which seven are to have a two-year term, and which seven are to have a three-year term. Thereafter, the successors to each of these twenty-one members shall serve a three-year term and until [his] **the member's** successor is appointed by the governor with the advice and consent of the senate. In addition, two members who are members of the house of representatives shall be appointed by the speaker of the house and two members who are members of the senate shall be appointed by the president pro tempore of the senate. The members appointed by the governor shall represent people with head injuries, relatives of persons with head injuries, proprietary schools as defined in section 173.600, RSMo, professional groups, health institutions, or private industry and state agencies which administer programs regarding mental health, education, public health, public safety, insurance, and Medicaid. The appointment of individuals representing state agencies shall be conditioned on their continued employment with their respective agencies.

2. The Missouri head injury advisory council is assigned to the division of general services in the office of administration. The office of administration shall submit estimates of requirements for appropriations on behalf of the council for the necessary staff and expenses to carry out the duties and responsibilities assigned by the council. Such staff shall consist of a director and other support staff.

3. Meetings shall be held at least every ninety days or at the call of the council [chairman] **chairperson**, who shall be elected by the council.

4. Each member shall, **subject to appropriations**, be reimbursed for reasonable and necessary expenses actually incurred in the performance of [his] **the member's** official duties.

5. The council shall adopt written procedures to govern its activities. Staff and consultants shall be provided for the council from appropriations requested by the commissioner of the office of administration for such purpose.

6. The council shall make recommendations to the governor for developing and administering a state plan to provide services for head injured persons.

7. No member of the council may participate in or seek to influence a decision or vote of the council if the member would be directly involved with the matter or if [he] **the member** would derive income from it. A violation of the prohibition contained herein shall be grounds for a person to be removed as a member of the council by the governor.

8. The council shall be advisory and shall:

(1) Promote meetings and programs for the discussion of reducing the debilitating effects of head injuries and disseminate information in cooperation with any other department, agency or entity on the prevention, evaluation, care, treatment and rehabilitation of persons affected by head injuries;

(2) Study and review current prevention, evaluation, care, treatment and rehabilitation technologies and recommend appropriate preparation, training, retraining and distribution of manpower and resources in the provision of services to head injured persons through private and public residential facilities, day programs and other specialized services;

(3) Recommend what specific methods, means and procedures should be adopted to improve and upgrade the state's service delivery system for head injured citizens of this state;

(4) Participate in developing and disseminating criteria and standards which may be required for future funding or licensing of facilities, day programs and other specialized services for head injured persons in this state;

(5) Report annually to the commissioner of administration, the governor, and the general assembly on its activities, and on the results of its studies and the recommendations of the council.

9. The office of administration may accept on behalf of the council federal funds, gifts and donations from individuals, private organizations and foundations, and any other funds that may become available.

197.272. STATE HOSPICE ADVISORY COUNCIL ESTABLISHED — MEMBERS, QUALIFICATIONS — APPOINTMENT, TERMS, REAPPOINTMENT — COMPENSATION — DUTIES. — 1. There is hereby established a "State Hospice Advisory Council" which shall guide, advise and make recommendations to the department of health and senior services.

2. Members of the council shall be United States citizens and residents of the state for a period of not less than one year. The council shall consist of five members who have experience with hospices. Of the members appointed to the council at least one shall be employed by or associated with each of the following:

- (1) A home health agency-based hospice;
- (2) A hospital-based hospice; and
- (3) A hospice based in a rural area.

3. All members of the council shall be appointed by the director of the department. The term of office of each member shall be for five years. Before a member's term expires, the director of the department shall appoint a successor to assume [his] **the member's** duties on the expiration of his **or her** predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term. The members of the council shall annually designate one member to serve as [chairman] **chairperson** and another to serve as secretary.

4. No member of the council who has served two full terms may be reappointed to the council until at least one year after the expiration of [his] **the member's** most recent full term of office.

5. Members of the council shall receive no compensation for their service, but shall, **subject to appropriations**, be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

6. The council shall advise and consult with the department of health and senior services in carrying out the administration of sections 197.250 to 197.280, and shall:

(1) Consult and advise with the department in matters of policy affecting administration of sections 197.250 to 197.280, and in the development of rules, regulations and standards provided for under sections 197.250 to 197.280;

(2) Review and make recommendations with respect to rules, regulations and standards authorized under sections 197.250 to 197.280 prior to their promulgation by the department of health and senior services.

197.450. HOME HEALTH SERVICES ADVISORY COUNCIL — MEMBERS — TERMS, QUALIFICATIONS — APPOINTMENT — VACANCIES — EXPENSES. — 1. There is hereby created the "Home Health Services Advisory Council", which shall guide, advise and make recommendations to the department relating to the rules and standards adopted and the implementation and administration of sections 197.400 to 197.475.

2. Members of the council shall be residents of this state. The council shall consist of members who shall serve for a term of three years. No member may serve more than two successive full terms. One member of the council shall be a representative of the department, and such member shall serve as chairman of the council. Three members shall be citizens selected from the state at large and shall have no connection with any home health agency. Five members shall be representatives of home health agencies and one of these five members shall be selected from each of the following types of home health agencies:

- (1) Public sponsored home health agencies;
- (2) Institutional sponsored home health agencies;
- (3) Voluntary nonprofit home health agencies;
- (4) Private nonprofit home health agencies; and
- (5) For-profit home health agencies.

3. All members of the council shall be appointed by the director of the department. The term of office of each member shall be for three years or until his successor is appointed; except that, of the members first appointed, three shall be selected for one year, three shall be selected for two years, and three shall be selected for three years. Before a member's term expires, the director of the department shall appoint a successor to assume his duties on the expiration of his predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term.

4. The council shall meet not less than quarterly each year at a place, day and hour determined by the council. The council may also meet at such other times and places as may be designated by the chairman, or upon the request of the majority of the other members of the council.

5. Members of the council shall receive no compensation for their services, but shall be reimbursed, [out of funds appropriated to the department for that purpose] **subject to appropriations**, for their actual and necessary expenses incurred in the performance of their duties.

344.060. BOARD, MEMBERSHIP, QUALIFICATIONS, TERMS, REMOVED HOW, HEARING. —

1. The director of the department of [social services] **health and senior services** shall appoint ten suitable persons who together with the director of the division of aging of the department of [social] **health and senior** services shall constitute the "Missouri Board of Nursing Home Administrators" which is hereby created **within the department of health and senior services** and which shall have the functions, powers and duties prescribed by sections 344.010 to 344.100.

2. In addition to the director of the division of aging or his designee the membership of the board shall consist of one licensed physician, two licensed health professionals, one person from the field of health care education, four persons who have been in general administrative charge of a licensed nursing home for a period of at least five years immediately preceding their appointment, and two public members. The public members shall be persons who are not, or never were, licensed nursing home administrators or the spouse of such persons, or persons who do not

have or never have had a material, financial interest in either the providing of licensed nursing home services or in an activity or organization directly related to licensed nursing home administration. Neither the one licensed physician, the two licensed health professionals, nor the person from the health care education field shall have any financial interest in a licensed nursing home.

3. The members of the board shall be appointed for three-year terms or until their successors are appointed and qualified provided that no more than four members' terms shall expire in the same year. All members appointed prior to September 28, 1979, shall serve the term for which they were appointed. The governor shall fill any vacancies on the board [from a list of five names submitted by the director of the department of social services] **as necessary**. Appointment to fill an unexpired term shall not be considered an appointment for a full term. Board membership, continued until successors are appointed and qualified, shall not constitute an extension of the three-year term and the successors shall serve only the remainder of the term.

4. [To] Every member [appointed by the director of the department of social services, there] shall [be issued] **receive** a certificate of appointment; and every appointee, before entering upon his **or her** duties, shall take the oath of office required by article VII, section 11, of the Constitution of Missouri.

5. Any member of the board may be removed by the director of the department of [social services] **health and senior services** for misconduct, incompetency or neglect to duty after first being given an opportunity to be heard in his own behalf.

701.302. ADVISORY COMMITTEE ON LEAD POISONING ESTABLISHED — MEMBERS — REPORT, RECOMMENDATIONS — COMPENSATION. — 1. There is hereby established the "Advisory Committee on Lead Poisoning". The members of the committee shall consist of twenty-seven persons who shall be appointed by the governor with the advice and consent of the senate, except as otherwise provided in this subsection. At least five of the members of the committee shall be African-Americans or representatives of other minority groups disproportionately affected by lead poisoning. The members of the committee shall include:

(1) The director of the department of health and senior services or the director's designee, who shall serve as an ex officio member;

(2) The director of the department of economic development or the director's designee, who shall serve as an ex officio member;

(3) The director of the department of natural resources or the director's designee, who shall serve as an ex officio member;

(4) The director of the department of social services or the director's designee, who shall serve as an ex officio member;

(5) The director of the department of labor and industrial relations or the director's designee, who shall serve as an ex officio member;

(6) One member of the senate, appointed by the president pro tempore of the senate, and one member of the house of representatives, appointed by the speaker of the house of representatives;

(7) A representative of the office of the attorney general, who shall serve as an ex officio member;

(8) A member of a city council, county commission or other local governmental entity;

(9) A representative of a community housing organization;

(10) A representative of property owners;

(11) A representative of the real estate industry;

(12) One representative of an appropriate public interest organization and one representative of a local public health agency promoting environmental health and advocating protection of children's health;

(13) A representative of the lead industry;

(14) A representative of the insurance industry;

(15) A representative of the banking industry;

- (16) A parent of a currently or previously lead-poisoned child;
 - (17) A representative of the school boards association or an employee of the department of elementary and secondary education, selected by the commissioner of elementary and secondary education;
 - (18) Two representatives of the lead abatement industry, including one licensed lead abatement contractor and one licensed lead abatement worker;
 - (19) A physician licensed under chapter 334, RSMo;
 - (20) A representative of a lead testing laboratory;
 - (21) A lead inspector or risk assessor;
 - (22) The chief engineer of the department of transportation or the chief engineer's designee, who shall serve as an ex officio member;
 - (23) A representative of a regulated industrial business; and
 - (24) A representative of a business organization.
2. The committee shall make recommendations relating to actions to:
- (1) Eradicate childhood lead poisoning by the year 2012;
 - (2) Screen children for lead poisoning;
 - (3) Treat and medically manage lead-poisoned children;
 - (4) Prevent lead poisoning in children;
 - (5) Maintain and increase laboratory capacity for lead assessments and screening, and a quality control program for laboratories;
 - (6) Abate lead problems after discovery;
 - (7) Identify additional resources, either through a tax or fee structure, to implement programs necessary to address lead poisoning problems and issues;
 - (8) Provide an educational program on lead poisoning for the general public and health care providers;
 - (9) Determine procedures for the removal and disposal of all lead contaminated waste in accordance with the Toxic Substances Control Act, as amended, 42 U.S.C. 2681, et seq., solid waste and hazardous waste statutes, and any other applicable federal and state statutes and regulations.
3. The committee members shall receive no compensation but shall, **subject to appropriations**, be reimbursed for actual and necessary expenses incurred in the performance of their duties. All public members and local officials shall serve for a term of two years and until their successors are selected and qualified, and other members shall serve for as long as they hold the office or position from which they were appointed.
4. No later than December fifteenth of each year, the committee shall provide a written annual report of its recommendations for actions as required pursuant to subsection 2 of this section to the governor and general assembly, including any legislation proposed by the committee to implement the recommendations.
5. The committee shall submit records of its meetings to the secretary of the senate and the chief clerk of the house of representatives in accordance with sections 610.020 and 610.023, RSMo.

Approved July 2, 2002

HB 1964 [SCS HB 1964]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Excludes certain neighborhood associations from certain statutes governing real estate agents.

AN ACT to repeal sections 339.010, 339.710, 339.720 and 339.770, RSMo, and to enact in lieu thereof four new sections relating to the selling of real estate.

SECTION

- A. Enacting clause.
- 339.010. Definitions — applicability of chapter.
- 339.710. Definitions.
- 339.720. Licensee's duties and obligations in writing — licensee as transaction broker, exceptions.
- 339.770. Broker disclosure form for residential real estate transaction, provided by licensee, prior agreement, effect.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 339.010, 339.710, 339.720 and 339.770, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 339.010, 339.710, 339.720 and 339.770, to read as follows:

339.010. DEFINITIONS — APPLICABILITY OF CHAPTER. — 1. A "real estate broker" is any person, partnership, association or corporation, foreign or domestic who, for another, and for a compensation or valuable consideration, as a whole or partial vocation, does, or attempts to do, any or all of the following:

- (1) Sells, exchanges, purchases, rents, or leases real estate;
- (2) Offers to sell, exchange, purchase, rent or lease real estate;
- (3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;
- (4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;
- (5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;
- (6) Advertises or holds himself **or herself** out as a licensed real estate broker while engaged in the business of buying, selling, exchanging, renting, or leasing real estate;
- (7) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate;
- (8) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate;
- (9) Engages in the business of charging to an unlicensed person an advance fee in connection with any contract whereby [he] **the real estate broker** undertakes to promote the sale of that person's real estate through its listing in a publication issued for such purpose intended to be circulated to the general public;
- (10) Performs any of the foregoing acts as an employee of, or on behalf of, the owner of real estate, or interest therein, or improvements affixed thereon, for compensation.

2. A "real estate salesperson" is any person, who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned, as a whole or partial vocation. The provisions of sections 339.010 to 339.180 shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

3. The term "commission" as used in sections 339.010 to 339.180 means the Missouri real estate commission.

4. "Real estate" for the purposes of sections 339.010 to 339.180 shall mean, and include, leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold, and whether the real estate is situated in this state or elsewhere.

5. The provisions of sections 339.010 to 339.180 shall not apply to:

- (1) Any person, partnership or corporation who as owner or lessor shall perform any of the acts described in subsection 1 of this section with reference to property owned or leased by them,

or to the regular employees thereof, provided such owner or lessor is not engaged in the real estate business as a vocation;

- (2) Any licensed attorney at law;
- (3) An auctioneer employed by the owner of the property;
- (4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or guardian or while acting under a court order or under the authority of a will, trust instrument or deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency;
- (5) Any person employed or retained to manage real property by, for, or on behalf of, the agent or the owner, of any real estate shall be exempt from holding a license, if the person is limited to one or more of the following activities:
 - (a) Delivery of a lease application, a lease, or any amendment thereof, to any person;
 - (b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental payment, or any related payment, for delivery to, and made payable to, a broker or owner;
 - (c) Showing a rental unit to any person, as long as the employee is acting under the direct instructions of the broker or owner, including the execution of leases or rental agreements;
 - (d) Conveying information prepared by a broker or owner about a rental unit, a lease, an application for lease, or the status of a security deposit, or the payment of rent, by any person;
 - (e) Assisting in the performance of brokers' or owners' functions, administrative, clerical or maintenance tasks;
 - (f) If the person described in this section is employed or retained by, for, or on behalf of a real estate broker, the real estate broker shall be subject to discipline under this chapter for any conduct of the person that violates this chapter or the regulations promulgated thereunder;
- (6) Any officer or employee of a federal agency or the state government or any political subdivision thereof performing [his] official duties;
- (7) Railroads and other public utilities regulated by the state of Missouri, or their subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless performance of any of the acts described in subsection 1 of this section is in connection with the sale, purchase, lease or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof;
- (8) Any bank, trust company, savings and loan association, credit union, insurance company, **mortgage banker**, or farm loan association organized under the laws of this state or of the United States when engaged in the transaction of business on its own behalf and not for others;
- (9) Any newspaper or magazine or periodical of general circulation whereby the advertising of real estate is incidental to the operation of that publication or to any form of communications regulated or licensed by the Federal Communications Commission or any successor agency or commission;
- (10) Any developer selling Missouri land owned by the developer if such developer has on file with the commission a certified copy of a currently effective statement of record on file with the Office of Interstate Land Sales pursuant to sections 1704 through 1706 of Title 15 of the United States Code or a current statement from the Office of Interstate Land Sales of the United States Department of Housing and Urban Development approving the documentation (together with a copy of such documentation) submitted to that office with respect to real estate falling within the scope of subsection 1702(a)(10) of Title 15 of the United States Code; [or]
- (11) Any employee acting on behalf of a nonprofit community, or regional economic development association, agency or corporation which has as its principal purpose the general promotion and economic advancement of the community at large, provided that such entity:
 - (a) Does not offer such property for sale, lease, rental or exchange on behalf of another person or entity;
 - (b) Does not list or offer or agree to list such property for sale, lease, rental or exchange; or

(c) Receives no fee, commission or compensation, either monetary or in kind, that is directly related to sale or disposal of such properties. An economic developer's normal annual compensation shall be excluded from consideration as commission or compensation related to sale or disposal of such properties; **or**

(12) Any neighborhood association, as that term is defined in section 441.500, RSMo, that without compensation, either monetary or in kind, provides to prospective purchasers or lessors of property the asking price, location, and contact information regarding properties in and near the association's neighborhood, including any publication of such information in a newsletter, web site, or other medium.

339.710. DEFINITIONS. — For purposes of sections 339.710 to 339.860, the following terms mean:

(1) "Adverse material fact", a fact related to the physical condition of the property not reasonably ascertainable or known to a party which negatively affects the value of the property. Adverse material facts may include matters pertaining to:

- (a) Environmental hazards affecting the property;
- (b) Physical condition of the property which adversely affects the value of the property;
- (c) Material defects in the property;
- (d) Material defects in the title to the property;
- (e) Material limitation of the party's ability to perform under the terms of the contract;

(2) "Affiliated licensee", any broker or salesperson who works under the supervision of a designated broker;

(3) "Agent", a person or entity acting pursuant to the provisions of this chapter;

(4) "Broker disclosure form", the current form prescribed by the commission for presentation to a seller, landlord, buyer or tenant who has not entered into a written agreement for brokerage services;

(5) "Brokerage relationship", the relationship created between a designated broker, the broker's affiliated licensees, and a client relating to the performance of services of a broker as defined in section 339.010, and sections 339.710 to 339.860. If a designated broker makes an appointment of an affiliated licensee or affiliated licensees pursuant to section 339.820, such brokerage relationships are created between the appointed licensee or licensees and the client. Nothing in this subdivision shall:

(a) Alleviate the designated broker from duties of supervision of the appointed licensee or licensees; or

(b) Alter the designated broker's underlying contractual agreement with the client;

(6) "Client", a seller, landlord, buyer, or tenant who has entered into a brokerage relationship with a licensee pursuant to sections 339.710 to 339.860;

(7) "Commercial real estate", any real estate other than real estate containing one to four residential units, real estate on which no buildings or structures are located, or real estate classified as agricultural and horticultural property for assessment purposes pursuant to section 137.016, RSMo. Commercial real estate does not include single family residential units including condominiums, townhouses, or homes in a subdivision when that real estate is sold, leased, or otherwise conveyed on a unit-by-unit basis even though the units may be part of a larger building or parcel of real estate containing more than four units;

[(7)] (8) "Commission", the Missouri real estate commission;

[(8)] (9) "Confidential information", information obtained by the licensee from the client and designated as confidential by the client, information made confidential by sections 339.710 to 339.860 or any other statute or regulation, or written instructions from the client unless the information is made public or becomes public by the words or conduct of the client to whom the information pertains or by a source other than the licensee;

[(9)] **(10)** "Customer", an actual or potential seller, landlord, buyer, or tenant in a real estate transaction in which a licensee is involved but who has not entered into a brokerage relationship with a licensee;

[(10)] **(11)** "Designated agent", a licensee named by a designated broker as the limited agent of a client as provided for in section 339.820;

[(11)] **(12)** "Designated broker", any individual licensed as a broker who is operating pursuant to the definition of "real estate broker" as defined in section 339.010, or any individual licensed as a broker who is appointed by a partnership, association, limited liability corporation, or a corporation engaged in the real estate brokerage business to be responsible for the acts of the partnership, association, limited liability corporation, or corporation. Every real estate partnership, association, or limited liability corporation, or corporation shall appoint a designated broker;

[(12)] **(13)** "Designated transaction broker", a licensee named by a designated broker or deemed appointed by a designated broker as the transaction broker for a client pursuant to section 339.820;

[(13)] **(14)** "Dual agency", a form of agency which may result when an agent licensee or someone affiliated with the agent licensee represents another party to the same transaction;

[(14)] **(15)** "Dual agent", a limited agent who, with the written consent of all parties to a contemplated real estate transaction, has entered into an agency brokerage relationship, and not a transaction brokerage relationship, with and therefore represents both the seller and buyer or both the landlord and tenant;

[(15)] **(16)** "Licensee", a real estate broker or salesperson as defined in section 339.010;

[(16)] **(17)** "Limited agent", a licensee whose duties and obligations to a client are those set forth in sections 339.730 to 339.750;

[(17)] **(18)** "Ministerial acts", those acts that a licensee may perform for a person or entity that are informative in nature and do not rise to the level which requires the creation of a brokerage relationship. Examples of these acts include, but are not limited to:

(a) Responding to telephone inquiries by consumers as to the availability and pricing of brokerage services;

(b) Responding to telephone inquiries from a person concerning the price or location of property;

(c) Attending an open house and responding to questions about the property from a consumer;

(d) Setting an appointment to view property;

(e) Responding to questions of consumers walking into a licensee's office concerning brokerage services offered on particular properties;

(f) Accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property;

(g) Describing a property or the property's condition in response to a person's inquiry;

(h) Showing a customer through a property being sold by an owner on his or her own behalf; or

(i) Referral to another broker or service provider;

(19) "Residential real estate", all real property improved by a structure that is used or intended to be used primarily for residential living by human occupants and that contains not more than four dwelling units or that contains single dwelling units owned as a condominium or in a cooperative housing association, and vacant land classified as residential property. The term "cooperative housing association", means an association, whether incorporated or unincorporated, organized for the purpose of owning and operating residential real property in Missouri, the shareholders or members of which, by reason of their ownership of a stock or membership certificate, a proprietary lease, or other evidence of membership, are entitled to occupy a dwelling unit pursuant to the terms of a proprietary lease or occupancy agreement;

[(18)] (20) "Single agent", a licensee who has entered into a brokerage relationship with and therefore represents only one party in a real estate transaction. A single agent may be one of the following:

(a) "Buyer's agent", which shall mean a licensee who represents the buyer in a real estate transaction;

(b) "Seller's agent", which shall mean a licensee who represents the seller in a real estate transaction; and

(c) "Landlord's agent", which shall mean a licensee who represents a landlord in a leasing transaction;

(d) "Tenant's agent", which shall mean a licensee who represents the tenant in a leasing transaction;

[(19)] (21) "Subagent", a designated broker, together with the broker's affiliated licensees, engaged by another designated broker, together with the broker's affiliated or appointed affiliated licensees, to act as a limited agent for a client, or a designated broker's unappointed affiliated licensees engaged by the designated broker, together with the broker's appointed affiliated licensees, to act as a limited agent for a client. A subagent owes the same obligations and responsibilities to the client pursuant to sections 339.730 to 339.740 as does the client's designated broker;

[(20)] (22) "Transaction broker", any licensee acting pursuant to sections 339.710 to 339.860, who:

(a) Assists the parties to a transaction without an agency or fiduciary relationship to either party and is, therefore, neutral, serving neither as an advocate or advisor for either party to the transaction;

(b) Assists one or more parties to a transaction and who has not entered into a specific written agency agreement to represent one or more of the parties; or

(c) Assists another party to the same transaction either solely or through licensee affiliates. Such licensee shall be deemed to be a transaction broker and not a dual agent, provided that, notice of assumption of transaction broker status is provided to the buyer and seller immediately upon such default to transaction broker status, to be confirmed in writing prior to execution of the contract.

339.720. LICENSEE'S DUTIES AND OBLIGATIONS IN WRITING — LICENSEE AS TRANSACTION BROKER, EXCEPTIONS. — 1. A licensee's general duties and obligations arising from the limited agency relationship shall be disclosed in writing to the seller and the buyer or to the landlord and the tenant pursuant to sections 339.760 to 339.780. Alternatively, when engaged in any of the activities enumerated in section 339.010, a licensee may act as an agent in any transaction in accordance with a written agreement as described in section 339.780.

2. A licensee shall be considered a transaction broker unless:

(1) The designated broker enters into a written seller's agent or landlord's agent agreement with the party or parties to be represented pursuant to subsection 2 of section 339.780;

(2) The designated broker enters into a subagency agreement with another designated broker pursuant to subsection 5 of section 339.780;

(3) The designated broker [enters into a written buyer's agent or tenant's agent agreement with the party or parties to be represented pursuant to subsection 3 of section 339.780] **establishes a buyer's or tenant's agency relationship pursuant to subsection 3 of section 339.780;**

(4) The designated broker enters into a written agency agreement pursuant to subsection 7 of section 339.780;

(5) The designated broker and the affiliated licensees are performing ministerial acts;

(6) The designated broker enters into a written dual agency agreement with the parties pursuant to subsection 4 of section 339.780;

(7) The designated broker is acting in a manner described in paragraph (c) of subdivision [(20)] (22) of section 339.710 without proper notice of assumption of transaction broker status; or

(8) The licensee is making a listing presentation, which may include pricing and marketing advice about a potential future transaction, to a customer in anticipation of entering into a signed agency brokerage service agreement as a direct result of the presentation.

3. Sections 339.710 to 339.860 do not obligate any buyer or tenant to pay compensation to a designated broker unless the buyer or tenant has entered into a written agreement with the designated broker specifying the compensation terms in accordance with subsection 3 of section 339.780.

4. A licensee may work with a single party in separate transactions pursuant to different relationships, including, but not limited to, selling one property as a transaction broker or a seller's agent working with that seller in buying another property as a buyer's agent, as a subagent or as a transaction broker if the licensee complies with sections 339.710 to 339.860 in establishing the relationships for each transaction.

339.770. BROKER DISCLOSURE FORM FOR RESIDENTIAL REAL ESTATE TRANSACTION, PROVIDED BY LICENSEE, PRIOR AGREEMENT, EFFECT. — 1. In a residential real estate transaction, at the earliest practicable opportunity during or following the first substantial contact by the designated broker or the affiliated licensees with a seller, landlord, buyer, or tenant who has not entered into a written agreement for services as described in subdivision (5) of section 339.710, the licensee shall provide that person with a written copy of the current broker disclosure form which has been prescribed by the commission.

2. When a seller, landlord, buyer, or tenant has already entered into a written agreement for services with a designated broker, no other licensee shall be required to make the disclosures required by this section.

3. Disclosures made in accordance with sections 339.710 to 339.860 shall be sufficient as a matter of law to disclose brokerage relationships to the public.

Approved June 28, 2002

HB 1973 [HB 1973]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires the Department of Elementary and Secondary Education to conduct a study relating to economics and personal finance education.

AN ACT to amend chapter 161, RSMo, by adding thereto one new section relating to economics and personal finance education.

SECTION

A. Enacting clause.

161.655. Economic and personal finance education study, report to general assembly, when — content of report — costs, how paid.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 161, RSMo, is amended by adding thereto one new section, to be known as section 161.655, to read as follows:

161.655. ECONOMIC AND PERSONAL FINANCE EDUCATION STUDY, REPORT TO GENERAL ASSEMBLY, WHEN — CONTENT OF REPORT — COSTS, HOW PAID. — 1. For the purpose of promoting and improving each public school student's knowledge and responsibility relating to economics and personal finance, the department of elementary and secondary education shall conduct a study of economics and personal finance education and submit a report on the study to the Missouri general assembly on or before January 1, 2003.

2. The economics and personal finance report shall include, but not be limited to, the following:

(1) Recommendations on methods, materials, procedures, and in-service training of teachers;

(2) Recommendations relating to funding to facilitate the integration of grade-appropriate principles of economics and personal finance from kindergarten through the twelfth grade into math, reading, writing, social studies, business, and family and consumer science courses;

(3) Recommendations relating to detailed procedures and time tables to assure integration of testing on appropriate areas of economics and personal finance in the Missouri Assessment Program (MAP) with sufficient test questions to permit a separate reportable test score for each of these two subjects;

(4) Recommendations relating to content for a capstone high school course in economics and personal finance in which a passing grade shall be achieved by each public school student prior to graduation from high school;

(5) Recommendations relating to establishing appropriate undergraduate preparation requirements for teacher certification for teachers from kindergarten through the twelfth grade that will enable new teachers to meet these increased expectations in economics and personal finance education;

(6) Recommendations relating to appropriate changes in state laws, rules, or regulations that are necessary to implement the stated purpose of this study.

3. Any costs relating to the completion of this study shall not be paid by Missouri tax revenue funds, but shall be paid by federal funds, private funds, or other funding sources.

Approved July 2, 2002

HB 1982 [HB 1982]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Specifies travel expense guidelines for assessors in certain counties.

AN ACT to repeal section 53.135, RSMo, and to enact in lieu thereof one new section relating to travel expenses for assessors in certain counties.

SECTION

A. Enacting clause.

53.135. Travel expenses (third and fourth class counties).

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 53.135, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 53.135, to read as follows:

53.135. TRAVEL EXPENSES (THIRD AND FOURTH CLASS COUNTIES). — The county assessor in counties of the third and fourth classification shall be allowed a reimbursement for actual and necessary travel expenses incurred in the performance of [his or her] **the assessor's** official duties within the county at the rate allowed pursuant to subsection 10 of section 50.333, RSMo, payable monthly upon the filing of a statement by the assessor with the county commission showing the actual and necessary miles traveled during the month, to be paid out of the county treasury.

Approved July 10, 2002

HB 1988 [HB 1988]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Makes the fox trotting horse the official state horse.

AN ACT to amend chapter 10, RSMo, by adding thereto one new section relating to the establishment of an official state horse.

SECTION

A. Enacting clause.

10.140. Missouri fox trotting horse, official state horse.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 10, RSMo, is amended by adding thereto one new section, to be known as section 10.140, to read as follows:

10.140. MISSOURI FOX TROTting HORSE, OFFICIAL STATE HORSE. — **The Missouri Fox Trotting Horse, is hereby selected for, and shall be known as, the official state horse of the state of Missouri.**

Approved June 4, 2002

HB 2001 [HB 2001]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows the State Dental Board to enter into diversion agreements with dentists or dental hygienists.

AN ACT to repeal section 332.327, RSMo, and to enact in lieu thereof one new section relating to the Missouri dental board.

SECTION

A. Enacting clause.

332.327. Dental well-being committee, powers and duties, records confidential, when — diversion agreements, entered into when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 332.327, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 332.327, to read as follows:

332.327. DENTAL WELL-BEING COMMITTEE, POWERS AND DUTIES, RECORDS CONFIDENTIAL, WHEN — DIVERSION AGREEMENTS, ENTERED INTO WHEN. — 1. The board may establish an impaired dentist or dental hygienist committee, to be designated as the well-being committee, to promote the early identification, intervention, treatment and rehabilitation of dentists or dental hygienists who may be impaired by reasons of illness, substance abuse, or as a result of any physical or mental condition. The board may enter into a contractual agreement with a nonprofit corporation or a dental association for the purpose of creating, supporting and maintaining a committee to be designated as the well-being committee. The board may promulgate administrative rules subject to the provisions of this section and chapter 536, RSMo, to effectuate and implement any committee formed pursuant to this section. The board may expend appropriated funds necessary to provide for operational expenses of the committee formed pursuant to this section. Any member of the well-being committee, as well as any administrator, staff member, consultant, agent or employee of the committee, acting within the scope of his or her duties and without actual malice and, all other persons who furnish information to the committee in good faith and without actual malice, shall not be liable for any claim of damages as a result of any statement, decision, opinion, investigation or action taken by the committee, or by any individual member of the committee.

2. All information, interviews, reports, statements, memoranda or other documents furnished to or produced by the well-being committee, as well as communications to or from the committee, any findings, conclusions, interventions, treatment, rehabilitation or other proceedings of the committee which in any way pertain to a licensee who may be, or who actually is, impaired shall be privileged and confidential.

3. All records and proceedings of the well-being committee which pertain or refer to a licensee who may be, or who actually is, impaired shall be privileged and confidential and shall be used by the committee and its members only in the exercise of the proper function of the committee and shall not be considered public records pursuant to chapter 610, RSMo, and shall not be subject to court subpoena or subject to discovery or introduction as evidence in any civil, criminal or administrative proceedings except as provided in subsection 4 of this section.

4. The well-being committee may disclose information relative to an impaired licensee only when:

(1) It is essential to disclose the information to further the intervention, treatment or rehabilitation needs of the impaired licensee and only to those persons or organization with a need to know;

(2) Its release is authorized in writing by the impaired licensee;

(3) The committee is required to make a report to the board; or

(4) The information is subject to a court order.

5. In lieu of pursuing discipline against a dentist or dental hygienist for violating one or more causes stated in subsection 2 of section 332.321, the board may enter into a diversion agreement with a dentist or dental hygienist to refer the licensee to the dental well-being committee under such terms and conditions as are agreed to by the board and licensee for a period not to exceed five years. The board shall enter into no more than two diversion agreements with any individual licensee. If the licensee violates a term or condition of a diversion agreement entered into pursuant to this section, the board may

elect to pursue discipline against the licensee pursuant to chapter 621, RSMo, for the original conduct that resulted in the diversion agreement, or for any subsequent violation of subsection 2 of section 332.321. While the licensee participates in the well-being committee, the time limitations of section 620.154, RSMo, shall toll pursuant to subsection 7 of section 620.154, RSMo. All records pertaining to diversion agreements are confidential and may only be released pursuant to subdivision (7) of subsection 14 of section 620.010, RSMo.

Approved July 3, 2002

HB 2002 [HB 2002]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises provisions concerning coroner's inquests.

AN ACT to repeal sections 58.260, 58.270, 58.310, 58.330, 58.340, and 58.360, RSMo, and to enact in lieu thereof six new sections relating to coroners inquests.

SECTION

- A. Enacting clause.
- 58.260. Coroner may issue warrant to summon coroner's jury, when.
- 58.270. Sheriff to execute warrant.
- 58.310. Charge to be given to jury by coroner.
- 58.330. Coroner to issue subpoenas.
- 58.340. Coroner to administer oath to witnesses.
- 58.360. Jury to deliver verdict in writing.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 58.260, 58.270, 58.310, 58.330, 58.340, and 58.360, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 58.260, 58.270, 58.310, 58.330, 58.340, and 58.360, to read as follows:

58.260. CORONER MAY ISSUE WARRANT TO SUMMON CORONER'S JURY, WHEN. — Every coroner, [so soon as he shall be notified] **having been notified** of the dead body of any person, supposed to have come to his **or her** death by violence or casualty, being found within his county, [shall] **may** make out his **or her** warrant, directed to the sheriff of the county where the dead body is found, requiring him **or her** forthwith to summon a jury of six good and lawful citizens of the county, to appear before such coroner, at the time and place in his **or her** warrant expressed, and to inquire[, upon a view of the body of the person there lying dead.] how and by whom he **or she** came to his **or her** death.

58.270. SHERIFF TO EXECUTE WARRANT. — The sheriff to whom such warrant shall be directed shall forthwith execute the same, and shall repair to the place where the [dead body is,] **inquest is to be held** at the time mentioned, and make return of the warrant, with his proceedings thereon, to the coroner who granted the same.

58.310. CHARGE TO BE GIVEN TO JURY BY CORONER. — As soon as the jury shall be sworn, the coroner shall give them a charge, upon their oaths, to declare of the death of the

person, whether he **or she** died by felony or accident; and if of felony, who were the principals and who were accessories, **and if the act was justified**, and all the material circumstances relating thereto; and if by accident, whether by the act of man, and the manner thereof, and who was present, and who was the finder of the body, and whether he **or she** was killed in the same place where the body was found, and, if elsewhere, by whom, and how the body was brought there, and all other circumstances relating to the death; and if he **or she** died of his **or her** own act, then the manner and means thereof, and the circumstances relating thereto.

58.330. CORONER TO ISSUE SUBPOENAS. — Every coroner shall be empowered to issue his **or her** summons for witnesses, **and such evidence, documents, and materials of substance**, commanding them to come before him **or her** to be examined, and to declare their knowledge concerning the matter in question.

58.340. CORONER TO ADMINISTER OATH TO WITNESSES. — He **or she** shall administer to them an oath or affirmation in form as follows:

You do swear (or affirm) that the evidence you shall give to the inquest, concerning the death of the person here [lying] dead, shall be the truth, the whole truth, and nothing but the truth.

58.360. JURY TO DELIVER VERDICT IN WRITING. — The jury, having viewed the body **by photographic, electronic, or other means**, heard the evidence, and made all the inquiry in their power, shall draw up and deliver to the coroner their verdict upon the death under consideration, in writing under their hand, and the same shall be signed by the coroner.

Approved July 2, 2002

HB 2008 [SS SCS HB 2008]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Adds a new category of motor vehicle dealer.

AN ACT to repeal sections 301.144, 301.550, 301.560, 301.600, 301.610, 301.620, 301.630, 301.640, 301.660, 301.661, 306.400, 306.405, 306.410, 306.420, 306.430, 306.440, 365.070, 365.120, 407.750, 407.751, 407.752, 407.850, 407.860, 407.870, 407.890, 407.892, 407.893, 454.516, 700.350, 700.355, 700.360, 700.365, 700.370, 700.380 and 700.390, RSMo, and to enact in lieu thereof twenty-eight new sections relating to motor vehicle dealers, with penalty provisions.

SECTION

- A. Enacting clause.
- 301.144. Personalized license plates, appearance, fees — new plates every three years without charge — obscene or offensive plates prohibited — amateur radio operators, plates, how marked — reposessed vehicles, placards — retired U.S. military plates, how marked.
- 301.550. Definitions — classification of dealers.
- 301.560. Application requirements, additional — bonds, fees, signs required — license number, certificate of numbers — duplicate dealer plates, issues, fees — test driving motor vehicles and vessels, use of plates.
- 301.567. Advertising standards, violation of, when.
- 301.600. Liens and encumbrances, how perfected — effect of on vehicles and trailers brought into state — security procedures for verifying electronic notices.
- 301.610. Certificate of ownership, delivery to whom, when — electronic certificate of ownership, defined, maintained by director, when.

- 301.620. Duties of parties upon creation of lien or encumbrance.
- 301.630. Lien or encumbrance, assignment, procedure, effect of — perfection of assignment, how, fee — form for notice of electronic certificate.
- 301.640. Release of lienholders' rights upon satisfaction of lien or encumbrance, procedure — issuance of new certificate of ownership — certain liens deemed satisfied, when — penalty.
- 301.660. Law not to affect existing rights, duties and interests.
- 306.400. Liens and encumbrances — valid, perfected, when, how, future advances — boats and motors subject to, when, how determined — revenue to establish security procedure, electronic notices, rulemaking authority.
- 306.405. Certificates of title, delivery of, how, to whom — lienholder may elect to have revenue retain electronic title.
- 306.410. Duties of parties upon creation of lien or encumbrance — failure of owner to perform certain duties, penalty.
- 306.420. Satisfaction of lien or encumbrance, release of, procedure — duties of lienholder and director of revenue — penalty for unauthorized release of a lien.
- 306.430. Liens and encumbrances incurred before July 1, 2003 — how terminated, completed and enforced.
- 306.440. Owner's failure to indicate lienholder on title application, penalty.
- 365.070. Retail installment contracts to be in writing — form, contents.
- 365.120. Time price differential, computed how.
- 407.850. Definitions.
- 407.860. Inventory qualifying for repurchase — percentage to be paid — cost of transportation to warehouse to be paid by retailer — packing and loading, how paid — transferee of manufacturer or distributors, law to apply, when.
- 407.870. Inventory which does not qualify for repurchase.
- 454.516. Lien on motor vehicles, boats, motors, manufactured homes and trailers, when, procedure — notice, contents — registration of lien, restrictions, removal of lien — public sale, when — good faith purchasers — child support lien database to be maintained.
- 700.350. Liens and encumbrances — valid, perfected, when, how — home subject to, when, how determined — security procedures — validity of prior transactions.
- 700.355. Certificates of title, delivery of, how, to whom — election for director to retain possession, procedure.
- 700.360. Creation of lien or encumbrance by owner, duties, failure to perform, penalty — subordinate lienholders, perfection procedure — new certificate issued, when.
- 700.365. Assignment of lien or encumbrance by lienholder, rights and obligations — perfection by assignee, how.
- 700.370. Satisfaction of lien or encumbrance, release of, procedure.
- 700.380. Liens and encumbrances incurred before July 1, 2003 — how terminated, completed and enforced.
- 301.661. Changes in certain sections remedial.
- 407.750. Industrial maintenance and construction power equipment, repurchase of on cancellation of contract, when, amount, payments made, when — exceptions.
- 407.751. Remedy under contract, retailer may pursue as alternative — not a bar to action under repurchase law, when.
- 407.752. Failure to make payment, civil action authorized.
- 407.890. Outdoor power equipment, repurchase of on cancellation of contract, when, amount — payments made, when — exceptions.
- 407.892. Remedy under contract, retailer may pursue as alternative to law.
- 407.893. Failure to make payment, civil action authorized.
- 700.390. Failure to indicate lienholder on title application — penalty.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 301.144, 301.550, 301.560, 301.600, 301.610, 301.620, 301.630, 301.640, 301.660, 301.661, 306.400, 306.405, 306.410, 306.420, 306.430, 306.440, 365.070, 365.120, 407.750, 407.751, 407.752, 407.850, 407.860, 407.870, 407.890, 407.892, 407.893, 454.516, 700.350, 700.355, 700.360, 700.365, 700.370, 700.380 and 700.390, RSMo, are repealed and twenty-eight new sections enacted in lieu thereof, to be known as sections 301.144, 301.550, 301.560, 301.567, 301.600, 301.610, 301.620, 301.630, 301.640, 301.660, 306.400, 306.405, 306.410, 306.420, 306.430, 306.440, 365.070, 365.120, 407.850, 407.860, 407.870, 454.516, 700.350, 700.355, 700.360, 700.365, 700.370 and 700.380, to read as follows:

301.144. PERSONALIZED LICENSE PLATES, APPEARANCE, FEES — NEW PLATES EVERY THREE YEARS WITHOUT CHARGE — OBSCENE OR OFFENSIVE PLATES PROHIBITED — AMATEUR RADIO OPERATORS, PLATES, HOW MARKED — REPOSSESSED VEHICLES,

PLACARDS — RETIRED U.S. MILITARY PLATES, HOW MARKED. — 1. The director of revenue shall establish and issue special personalized license plates containing letters or numbers or combinations of letters and numbers, not to exceed six characters in length. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Any person desiring to obtain a special personalized license plate for any motor vehicle other than a commercial motor vehicle licensed for more than twelve thousand pounds shall apply to the director of revenue on a form provided by the director and shall pay a fee of fifteen dollars in addition to the regular registration fees. The director of revenue shall issue rules and regulations setting the standards and establishing the procedure for application for and issuance of the special personalized license plates and shall provide a deadline each year for the applications. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void. No two owners shall be issued identical plates. An owner shall make a new application and pay a new fee each year such owner desires to obtain or retain special personalized license plates; however, notwithstanding the provisions of subsection 8 of section 301.130 to the contrary, the director shall allow the special personalized license plates to be replaced with new plates every three years without any additional charge, above the fee established in this section, to the renewal applicant. Any person currently in possession of an approved personalized license plate shall have first priority on that particular plate for each of the following years that timely and appropriate application is made.

2. No personalized license plates shall be issued containing any letters, numbers or combination of letters and numbers which are obscene, profane, [inflammatory or contrary to public policy] **patently offensive or contemptuous of a racial or ethnic group, or offensive to good taste or decency, or would present an unreasonable danger to the health or safety of the applicant, of other users of streets and highways, or of the public in any location where the vehicle with such a plate may be found.** The director may recall any personalized license plates, including those issued prior to August 28, 1992, if the director determines that the plates are obscene, profane, [inflammatory or contrary to public policy] **patently offensive or contemptuous of a racial or ethnic group, or offensive to good taste or decency, or would present an unreasonable danger to the health or safety of the applicant, of other users of streets and highways, or of the public in any location where the vehicle with such a plate may be found.** Where the director recalls such plates pursuant to the provisions of this subsection, the director shall reissue personalized license plates to the owner of the motor vehicle for which they were issued at no charge, if the new plates proposed by the owner of the motor vehicle meet the standards established pursuant to this section. **The director shall not apply the provisions of this statute in a way that violates the Missouri or United States constitutions as interpreted by the courts with controlling authority in the state of Missouri. The primary purpose of motor vehicle licence plates is to identify motor vehicles. Nothing in the issuance of a personalized license plate creates a designated or limited public forum.** Nothing contained in this subsection shall be interpreted to prohibit the use of license plates, which are no longer valid for registration purposes, as collector's items or for decorative purposes.

3. The director may also establish categories of special license plates from which license plates may be issued. Any such person, other than a person exempted from the additional fee pursuant to subsection 6 of this section, that desires a personalized special license plate from any such category shall pay the same additional fee and make the same kind of application as that

required by subsection 1 of this section, and the director shall issue such plates in the same manner as other personalized special license plates are issued.

4. The director of revenue shall issue to residents of the state of Missouri who hold an unrevoked and unexpired official amateur radio license issued by the Federal Communications Commission, upon application and upon payment of the additional fee specified in subsection 1 of this section, except for a person exempted from the additional fee pursuant to subsection 6 of this section, personalized special license plates bearing the official amateur radio call letters assigned by the Federal Communications Commission to the applicant. The application shall be accompanied by an affidavit stating that the applicant has an unrevoked and unexpired amateur radio license issued by the Federal Communications Commission and the official radio call letters assigned by the Federal Communications Commission to the applicant.

5. Notwithstanding any other provision to the contrary, any business that repossesses motor vehicles or trailers and sells or otherwise disposes of them shall be issued a placard displaying the word "Repossessed", provided such business pays the fees presently required of a manufacturer, distributor, or dealer in subsection 1 of section 301.253. Such placard shall bear a number and shall be in such form as the director of revenue shall determine, and shall be only used for demonstrations when displayed substantially as provided for number plates on the rear of the motor vehicle or trailer.

6. Notwithstanding any provision of law to the contrary, any person who has retired from any branch of the United States armed forces or reserves, the United States Coast Guard or reserve, the United States Merchant Marines or reserve, the National Guard, or any subdivision of any such services shall be exempt from the additional fee required for personalized license plates issued pursuant to section 301.441. As used in this subsection, "retired" means having served twenty or more years in the appropriate branch of service and having received an honorable discharge.

301.550. DEFINITIONS — CLASSIFICATION OF DEALERS. — 1. The definitions contained in section 301.010 shall apply to sections 301.550 to 301.573, and in addition as used in sections 301.550 to 301.573, the following terms mean:

(1) "Boat dealer", any natural person, partnership, or corporation who, for a commission or with an intent to make a profit or gain of money or other thing of value, sells, barter, exchanges, leases or rents with the option to purchase, offers, attempts to sell, or negotiates the sale of any vessel or vessel trailer, whether or not the vessel or vessel trailer is owned by such person. The sale of six or more vessels or vessel trailers or both in any calendar year shall be required as evidence that such person is eligible for licensure as a boat dealer under sections 301.550 to 301.573. The boat dealer shall demonstrate eligibility for renewal of his license by selling six or more vessels or vessel trailers or both in the prior calendar year while licensed as a boat dealer pursuant to sections 301.550 to 301.573;

(2) "Boat manufacturer", any person engaged in the manufacturing, assembling or modification of new vessels or vessel trailers as a regular business, including a person, partnership or corporation which acts for and is under the control of a manufacturer or assembly in connection with the distribution of vessels or vessel trailers;

(3) "Department", the Missouri department of revenue;

(4) "Director", the director of the Missouri department of revenue;

(5) "Manufacturer", any person engaged in the manufacturing, assembling or modification of new motor vehicles or trailers as a regular business, including a person, partnership or corporation which acts for and is under the control of a manufacturer or assembly in connection with the distribution of motor vehicles or accessories for motor vehicles;

(6) "Motor vehicle broker", a person who holds himself out through solicitation, advertisement, or otherwise as one who offers to arrange a transaction involving the retail sale of a motor vehicle, and who is not:

(a) A dealer, or any agent, or any employee of a dealer when acting on behalf of a dealer;

(b) A manufacturer, or any agent, or employee of a manufacturer when acting on behalf of a manufacturer;

(c) The owner of the vehicle involved in the transaction; or

(d) A public motor vehicle auction or wholesale motor vehicle auction where buyers are licensed dealers in this or any other jurisdiction;

(7) "Motor vehicle dealer" or "dealer", any person who, for commission or with an intent to make a profit or gain of money or other thing of value, sells, barter, exchanges, leases or rents with the option to purchase, or who offers or attempts to sell or negotiates the sale of motor vehicles or trailers whether or not the motor vehicles or trailers are owned by such person; provided, however, an individual auctioneer or auction conducted by an auctioneer licensed pursuant to chapter 343, RSMo, shall not be included within the definition of a motor vehicle dealer. The sale of six or more motor vehicles or trailers in any calendar year shall be required as evidence that such person is engaged in the motor vehicle business and is eligible for licensure as a motor vehicle dealer under sections 301.550 to 301.573;

(8) "New motor vehicle", any motor vehicle being transferred for the first time from a manufacturer, distributor or new vehicle dealer which has not been registered or titled in this state or any other state and which is offered for sale, barter or exchange by a dealer who is franchised to sell, barter or exchange that particular make of motor vehicle. The term "new motor vehicle" shall not include manufactured homes, as defined in section 700.010, RSMo;

(9) "New motor vehicle franchise dealer", any motor vehicle dealer who has been franchised to deal in a certain make of motor vehicle by the manufacturer or distributor of that make and motor vehicle and who may, in line with conducting his business as a franchise dealer, sell, barter or exchange used motor vehicles;

(10) "Person" includes an individual, a partnership, corporation, an unincorporated society or association, joint venture or any other entity;

(11) "Powersport dealer", any motor vehicle dealer who sells, either pursuant to a franchise agreement or otherwise, primarily motor vehicles including but not limited to motorcycles, all-terrain vehicles, and personal watercraft, as those terms are defined in this chapter and chapter 306, RSMo;

[(11)] (12) "Public motor vehicle auction", any person, firm or corporation who takes possession of a motor vehicle whether by consignment, bailment or any other arrangement, except by title, for the purpose of selling motor vehicles at a public auction by a licensed auctioneer;

[(12)] (13) "Storage lot", an area, within the same city or county where a dealer may store excess vehicle inventory;

[(13)] (14) "Used motor vehicle", any motor vehicle which is not a new motor vehicle, as defined in sections 301.550 to 301.573, and which has been sold, bartered, exchanged or given away or which may have had a title issued in this state or any other state, or a motor vehicle so used as to be what is commonly known as a secondhand motor vehicle. In the event of an assignment of the statement of origin from an original franchise dealer to any individual or other motor vehicle dealer other than a new motor vehicle franchise dealer of the same make, the vehicle so assigned shall be deemed to be a used motor vehicle and a certificate of ownership shall be obtained in the assignee's name. The term "used motor vehicle" shall not include manufactured homes, as defined in section 700.010, RSMo;

[(14)] (15) "Used motor vehicle dealer", any motor vehicle dealer who is not a new motor vehicle franchise dealer;

[(15)] (16) "Vessel", every boat and watercraft defined as a vessel in section 306.010, RSMo;

[(16)] (17) "Vessel trailer", any trailer, as defined by section 301.010 which is designed and manufactured for the purposes of transporting vessels;

[(17)] (18) "Wholesale motor vehicle auction", any person, firm or corporation in the business of providing auction services solely in wholesale transactions at its established place of

business in which the purchasers are motor vehicle dealers licensed by this or any other jurisdiction, and which neither buys, sells nor owns the motor vehicles it auctions in the ordinary course of its business. Except as required by law with regard to the auction sale of a government owned motor vehicle, a wholesale motor vehicle auction shall not provide auction services in connection with the retail sale of a motor vehicle;

[(18)] (19) "Wholesale motor vehicle dealer", a motor vehicle dealer who sells motor vehicles only to other new motor vehicle franchise dealers or used motor vehicle dealers or via auctions limited to other dealers of any class.

2. For purposes of sections 301.550 to 301.573, neither the term "motor vehicle" nor the term "trailer" shall include manufactured homes, as defined in section 700.010, RSMo.

3. Dealers shall be divided into classes as follows:

- (1) Boat dealers;
- (2) Franchised new motor vehicle dealers;
- (3) Used motor vehicle dealers;
- (4) Wholesale motor vehicle dealers;
- (5) Recreational motor vehicle dealers;
- (6) Historic motor vehicle dealers;
- (7) Classic motor vehicle dealers; and
- (8) [Motorcycle] **Powersport** dealers.

301.560. APPLICATION REQUIREMENTS, ADDITIONAL — BONDS, FEES, SIGNS REQUIRED — LICENSE NUMBER, CERTIFICATE OF NUMBERS — DUPLICATE DEALER PLATES, ISSUES, FEES — TEST DRIVING MOTOR VEHICLES AND VESSELS, USE OF PLATES. — 1. In addition to the application forms prescribed by the department, each applicant shall submit the following to the department:

(1) When the application is being made for licensure as a manufacturer, boat manufacturer, motor vehicle dealer, boat dealer, wholesale motor vehicle dealer, wholesale motor vehicle auction or a public motor vehicle auction, a certification by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located; except, that in counties of the first classification, certification may be authorized by an officer of a metropolitan police department when the applicant's established place of business of distributing or selling motor vehicles or trailers is in the metropolitan area where the certifying metropolitan police officer is employed, that the applicant has a bona fide established place of business. A bona fide established place of business for any new motor vehicle franchise dealer or used motor vehicle dealer shall include a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for the selling, bartering, trading or exchanging of motor vehicles or trailers and wherein the public may contact the owner or operator at any reasonable time, and wherein shall be kept and maintained the books, records, files and other matters required and necessary to conduct the business. The applicant's place of business shall contain a working telephone which shall be maintained during the entire registration year. In order to qualify as a bona fide established place of business for all applicants licensed pursuant to this section there shall be an exterior sign displayed carrying the name [and class] of the business [conducted] **set forth** in letters at least six inches in height and clearly visible to the public and there shall be an area or lot which shall not be a public street on which one or more vehicles may be displayed, except when licensure is for a wholesale motor vehicle dealer, a lot and sign shall not be required. **The sign shall contain the name of the dealership by which it is known to the public through advertising or otherwise, which need not be identical to the name appearing on the dealership's license so long as such name is registered as a fictitious name with the secretary of state, has been approved by its line-make manufacturer in writing in the case of a new motor vehicle franchise dealer and a copy of such fictitious name registration has been provided to the department.** When licensure is for a boat dealer, a lot shall not be required. In the case of new motor vehicle

franchise dealers, the bona fide established place of business shall include adequate facilities, tools and personnel necessary to properly service and repair motor vehicles and trailers under their franchisor's warranty;

(2) If the application is for licensure as a manufacturer, boat manufacturer, new motor vehicle franchise dealer, used motor vehicle dealer, wholesale motor vehicle auction, boat dealer or a public motor vehicle auction, a photograph, not to exceed eight inches by ten inches, showing the business building and sign shall accompany the initial application. In the case of a manufacturer, new motor vehicle franchise dealer or used motor vehicle dealer, the photograph shall include the lot of the business. A new motor vehicle franchise dealer applicant who has purchased a currently licensed new motor vehicle franchised dealership shall be allowed to submit a photograph of the existing dealership building, lot and sign but shall be required to submit a new photograph upon the installation of the new dealership sign as required by sections 301.550 to 301.573. Applicants shall not be required to submit a photograph annually unless the business has moved from its previously licensed location, or unless the name of the business or address has changed, or unless the class of business has changed;

(3) If the application is for licensure as a wholesale motor vehicle dealer or as a boat dealer, the application shall contain the business address, not a post office box, and telephone number of the place where the books, records, files and other matters required and necessary to conduct the business are located and where the same may be inspected during normal daytime business hours. Wholesale motor vehicle dealers and boat dealers shall file reports as required of new franchised motor vehicle dealers and used motor vehicle dealers;

(4) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer, a wholesale motor vehicle dealer, or boat dealer shall furnish with the application a corporate surety bond or an irrevocable letter of credit as defined in section 400.5-103, RSMo, issued by any state or federal financial institution in the penal sum of twenty-five thousand dollars on a form approved by the department. The bond or irrevocable letter of credit shall be conditioned upon the dealer complying with the provisions of the statutes applicable to new motor vehicle franchise dealers, used motor vehicle dealers, wholesale motor vehicle dealers and boat dealers, and the bond shall be an indemnity for any loss sustained by reason of the acts of the person bonded when such acts constitute grounds for the suspension or revocation of the dealer's license. The bond shall be executed in the name of the state of Missouri for the benefit of all aggrieved parties or the irrevocable letter of credit shall name the state of Missouri as the beneficiary; except, that the aggregate liability of the surety or financial institution to the aggrieved parties shall, in no event, exceed the amount of the bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter of credit shall be paid upon receipt by the department of a final judgment from a Missouri court of competent jurisdiction against the principal and in favor of an aggrieved party;

(5) Payment of all necessary license fees as established by the department. In establishing the amount of the annual license fees, the department shall, as near as possible, produce sufficient total income to offset operational expenses of the department relating to the administration of sections 301.550 to 301.573. All fees payable pursuant to the provisions of sections 301.550 to 301.573, other than those fees collected for the issuance of dealer plates or certificates of number collected pursuant to subsection 6 of this section, shall be collected by the department for deposit in the state treasury to the credit of the "Motor Vehicle Commission Fund", which is hereby created. The motor vehicle commission fund shall be administered by the Missouri department of revenue. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in such fund shall not be transferred and placed to the credit of the general revenue fund until the amount in the motor vehicle commission fund at the end of the biennium exceeds two times the amount of the appropriation from such fund for the preceding fiscal year or, if the department requires permit renewal less frequently than yearly, then three times the appropriation from such fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that

amount in the fund which exceeds the multiple of the appropriation from such fund for the preceding fiscal year.

2. In the event a new manufacturer, boat manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor vehicle auction or a public motor vehicle auction submits an application for a license for a new business and the applicant has complied with all the provisions of this section, the department shall make a decision to grant or deny the license to the applicant within eight working hours after receipt of the dealer's application, notwithstanding any rule of the department.

3. Upon the initial issuance of a license by the department, the department shall assign a distinctive dealer license number or certificate of number to the applicant and the department shall issue one number plate or certificate bearing the distinctive dealer license number or certificate of number within eight working hours after presentment of the application. Upon the renewal of a boat dealer, boat manufacturer, manufacturer, motor vehicle dealer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction, the department shall issue the distinctive dealer license number or certificate of number as quickly as possible. The issuance of such distinctive dealer license number or certificate of number shall be in lieu of registering each motor vehicle, trailer, vessel or vessel trailer dealt with by a boat dealer, boat manufacturer, manufacturer, public motor vehicle auction, wholesale motor vehicle dealer, wholesale motor vehicle auction or motor vehicle dealer.

4. Notwithstanding any other provision of the law to the contrary, the department shall assign the following distinctive dealer license numbers to:

New motor vehicle franchise dealers	D-0 through D-999
New motor vehicle franchise and commercial motor vehicle dealers	D-1000 through D-1999
Used motor vehicle dealers	D-2000 through D-5399 and D-6000 through D-9999
Wholesale motor vehicle dealers.	W-1000 through W-1999
Wholesale motor vehicle auctions.	W-2000 through W-2999
Trailer dealers.	T-0 through T-9999
Motor vehicle and trailer manufacturers	M-0 through M-9999
Motorcycle dealers	D-5400 through D-5999
Public motor vehicle auctions	A-1000 through A-1999
Boat dealers and boat manufacturers.	B-0 through B-9999

5. Upon the sale of a currently licensed new motor vehicle franchise dealership the department shall, upon request, authorize the new approved dealer applicant to retain the selling dealer's license number and shall cause the new dealer's records to indicate such transfer.

6. In the case of manufacturers and motor vehicle dealers, the department shall also issue one number plate bearing the distinctive dealer license number to the applicant upon payment by the manufacturer or dealer of a fifty-dollar fee. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Boat dealers and boat manufacturers shall be entitled to one certificate of number bearing such number upon the payment of a fifty-dollar fee. As many additional number plates as may be desired by manufacturers and motor vehicle dealers and as many additional certificates of number as may be desired by boat dealers and boat manufacturers may be obtained upon payment of a fee of ten dollars and fifty cents for each additional plate or certificate. A motor vehicle dealer, boat dealer, manufacturer, boat manufacturer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction obtaining a dealer license plate or certificate of number or additional license plate or additional certificate of number, throughout the calendar year, shall be required to pay a fee for such license plates or certificates of number computed on the basis of one-twelfth of the full fee prescribed for the original and duplicate number plates or certificates

of number for such dealers' licenses, multiplied by the number of months remaining in the licensing period for which the dealer or manufacturers shall be required to be licensed. In the event of a renewing dealer, the fee due at the time of renewal shall not be prorated.

7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any motor vehicle owned and held for resale by the motor vehicle dealer or manufacturer, and used by a customer who is test driving the motor vehicle, or is used by an employee or officer, but shall not be displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly used service or wrecker vehicle. Motor vehicle dealers may display their dealer plates on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition.

8. The certificates of number issued pursuant to subsection 3 or 6 of this section may be displayed on any vessel or vessel trailer owned and held for resale by a boat manufacturer or a boat dealer, and used by a customer who is test driving the vessel or vessel trailer, or is used by an employee or officer, but shall not be displayed on any vessel or vessel trailer hired or loaned to others or upon any regularly used service vessel or vessel trailer. Boat dealers and manufacturers may display their certificate of number on a vessel or vessel trailer which is being transported to an exhibit or show.

301.567. ADVERTISING STANDARDS, VIOLATION OF, WHEN. — 1. For purposes of this section, a violation of any of the following advertising standards shall be deemed an attempt by the advertising dealer to obtain a fee or other compensation by fraud, deception or misrepresentation in violation of section 301.562:

(1) A motor vehicle shall not be advertised as new, either by express terms or implication, unless it is a "new motor vehicle" as defined in section 301.550;

(2) When advertising any motor vehicle which is not a new motor vehicle, such advertisement must expressly identify that the motor vehicle is a used motor vehicle by express use of the term "used", or by such other term as is commonly understood to mean that the vehicle is used;

(3) Any terms, conditions, and disclaimers relating to the advertised motor vehicle's price or financing options shall be stated clearly and conspicuously. An asterisk or other reference symbol may be used to point to a disclaimer or other information, but not be used as a means of contradicting or changing the meaning of an advertised statement;

(4) The expiration date, if any, of an advertised sale or vehicle price shall be clearly and conspicuously disclosed. In the absence of such disclosure, the advertised sale or vehicle price shall be deemed effective so long as such vehicles remain in the advertising dealership's inventory;

(5) The terms "list price", "sticker price", or "suggested retail price", shall be used only in reference to the manufacturer's suggested retail price for new motor vehicles, and, if used, shall be accompanied by a clear and conspicuous disclosure that such terms represent the "manufacturer's suggested retail price" of the advertised vehicle;

(6) Terms such as "at cost", "\$..... above cost", shall not be used in advertisements because of the difficulty in determining a dealer's actual net cost at the time of the sale. Terms such as "invoice price", "\$..... over invoice", may be used, provided that the invoice referred to is the manufacturer's factory invoice for a new motor vehicle and the invoice is available for customer inspection. For purposes of this section, "manufacturer's factory invoice" means that document supplied by the manufacturer to the dealer listing the manufacturer's charge to the dealer before any deduction for holdback, group advertising, factory incentives or rebates, or any governmental charges;

(7) When the price or financing terms of a motor vehicle are advertised, the vehicle shall be fully identified as to year, make, and model. In addition, in advertisements placed by individual dealers and not line-make marketing groups, the advertised price or credit terms shall include all charges which the buyer must pay to the dealer, except buyer-selected options and state and local taxes. If a processing fee or freight or

destination charges are not included in the advertised price, the amount of any such processing fee and freight or destination charge must be clearly and conspicuously disclosed within the advertisement;

(8) Advertisements which offer to match or better any competitors' prices shall not be used;

(9) Advertisements of "dealer rebates" shall not be used, however, this shall not be deemed to prohibit the advertising of manufacturer rebates, so long as all material terms of such rebates are clearly and conspicuously disclosed;

(10) "Free", "at no cost", shall not be used if any purchase is required to qualify for the "free" item, merchandise, or service;

(11) "Bait advertising", in which an advertiser may have no intention to sell at the prices or terms advertised, shall not be used. Bait advertising shall include, but not be limited to, the following examples:

(a) Not having available for sale the advertised motor vehicles at the advertised prices. If a specific vehicle is advertised, the dealer shall be in possession of a reasonable supply of such vehicles, and they shall be available at the advertised price. If the advertised vehicle is available only in limited numbers or only by order, such limitations shall be stated in the advertisement;

(b) Advertising a motor vehicle at a specified price, including such terms as "as low as \$.....", but having available for sale only vehicles equipped with dealer added cost options which increase the selling price above the advertised price;

(12) Any reference to monthly payments, down payments, or other reference to financing or leasing information shall be accompanied by a clear and conspicuous disclosure of the following:

(a) Whether the payment or other information relates to a financing or a lease transaction;

(b) If the payment or other information relates to a financing transaction, the minimum down payment, annual percentage interest rate, and number of payments necessary to obtain the advertised payment amount must be disclosed, in addition to any special qualifications required for obtaining the advertised terms including, but not limited to, "first-time buyer" discounts, "college graduate" discounts, and a statement concerning whether the advertised terms are subject to credit approval;

(c) If the payment or other information relates to a lease transaction, the total amount due from the purchaser at signing with such costs broken down and identified by category, lease term expressed in number of months, whether the lease is closed-end or open-end, and total cost to the lessee over the lease term in dollars;

(13) Any advertisement which states or implies that the advertising dealer has a special arrangement or relationship with the distributor or manufacturer, as compared to similarly situated dealers, shall not be used;

(14) Any advertisement which, in the circumstances under which it is made or applied, is false, deceptive, or misleading shall not be used;

(15) No abbreviations for industry words or phrases shall be used in any advertisement unless such abbreviations are accompanied by the fully spelled or spoken words or phrases.

2. The requirements of this section shall apply regardless of whether a dealer advertises by means of print, broadcast, or electronic media, or direct mail.

3. Dealers shall clearly and conspicuously identify themselves in each advertisement by use of a dealership name which complies with subsection 6 of section 301.560.

301.600. LIENS AND ENCUMBRANCES, HOW PERFECTED — EFFECT OF ON VEHICLES AND TRAILERS BROUGHT INTO STATE — SECURITY PROCEDURES FOR VERIFYING ELECTRONIC NOTICES. — 1. Unless excepted by section 301.650, a lien or encumbrance on a

motor vehicle or trailer, as defined by section 301.010, is not valid against subsequent transferees or lienholders of the motor vehicle or trailer who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 301.600 to 301.660.

2. Subject to the provisions of section 301.620, a lien or encumbrance on a motor vehicle or trailer is perfected by the delivery to the director of revenue of a notice of a lien in a format as prescribed by the director of revenue. To perfect a subordinate lien, the notice of lien must be accompanied by the documents required to be delivered to the director pursuant to subdivision (3) of section 301.620. The notice of lien is perfected as of the time of its creation if the delivery of such notice to the director of revenue is completed within thirty days thereafter, otherwise as of the time of the delivery. A notice of lien shall contain the name and address of the owner of the motor vehicle or trailer and the secured party, a description of the motor vehicle or trailer, including the vehicle identification number, and such other information as the department of revenue may prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. **Provided the lienholder submits complete and legible documents, the director of revenue shall mail confirmation or electronically confirm receipt of such notice of lien to the lienholder as soon as possible, but no later than fifteen business days after the filing of the notice of lien.**

3. Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the future advance lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" on the notice of lien and noted on the certificate of ownership if the motor vehicle or trailer is subject to only one notice of lien. To secure future advances when an existing lien on a motor vehicle or trailer does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows: proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted for by the department of revenue, and returned to the lienholder.

4. If a motor vehicle or trailer is subject to a lien or encumbrance when brought into this state, the validity and effect of the lien or encumbrance is determined by the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrance attached that the motor vehicle or trailer would be kept in this state and it was brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state is determined by the law of this state;

(2) If the lien or encumbrance was perfected pursuant to the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state three months after a first certificate of ownership of the motor vehicle or trailer is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period; in that case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected pursuant to the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, it may be perfected in this state; in that case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected pursuant to paragraph (b) of subdivision (2) or subdivision (3) of this subsection either as provided in subsection 2 or 3 of this section or by the lienholder delivering to the director of revenue a notice of lien or encumbrance in the form the director of revenue prescribes and the required fee.

5. By rules and regulations, the director of revenue shall establish a security procedure for the purpose of verifying that an electronic notice of lien or notice of satisfaction of a lien on a motor vehicle or trailer given as permitted in sections 301.600 to 301.640 is that of the lienholder, verifying that an electronic notice of confirmation of ownership and perfection of a lien given as required in section 301.610 is that of the director of revenue, and detecting error in the transmission or the content of any such notice. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself be a security procedure.

301.610. CERTIFICATE OF OWNERSHIP, DELIVERY TO WHOM, WHEN — ELECTRONIC CERTIFICATE OF OWNERSHIP, DEFINED, MAINTAINED BY DIRECTOR, WHEN. — 1. A certificate of ownership of a motor vehicle or trailer when issued by the director of revenue shall be mailed [or confirmation of such ownership shall be electronically transmitted or mailed to the first lienholder named in such certificate; and if no lienholder is shown, then the certificate of ownership shall be mailed to the] owner shown on the face of the title of such motor vehicle or trailer. **If the certificate of ownership is being held electronically by the director of revenue at the election of a lienholder, then confirmation of such ownership shall be electronically transmitted or mailed to the first lienholder named in such certificate.**

2. A lienholder may elect that the director of revenue retain possession of an electronic certificate of ownership, and the director shall issue regulations to cover the procedure by which such election is made. Each such certificate of ownership shall require a separate election, unless the director provides otherwise by regulation. A subordinate lienholder shall be bound by the election of the superior lienholder with respect to the certificate involved.

3. "Electronic certificate of ownership" means any electronic record of ownership, including a lien or liens that may be recorded.

301.620. DUTIES OF PARTIES UPON CREATION OF LIEN OR ENCUMBRANCE. — If an owner creates a lien or encumbrance on a motor vehicle or trailer:

(1) The owner shall immediately execute the application, in the space provided therefor on the certificate of ownership or on a separate form the director of revenue prescribes, to name the lienholder on the certificate, showing the name and address of the lienholder and the date of the lienholder's security agreement, and cause the certificate, application and the required fee to be delivered to the director of revenue;

(2) The lienholder or an authorized agent licensed pursuant to sections 301.112 to 301.119 shall deliver to the director of revenue a notice of lien as prescribed by the director accompanied by all other necessary documentation to perfect a lien as provided in section 301.600;

(3) [Upon request of the owner or subordinate lienholder, a lienholder in possession of the certificate of ownership shall either mail or deliver the certificate to the subordinate lienholder for delivery to the director of revenue or, upon receipt from the subordinate lienholder of the owner's application, the certificate and the required fee, mail or deliver them to the director of revenue with the certificate. The delivery of the certificate does not affect the rights of the first lienholder under the security agreement;] **To perfect a lien for a subordinate lienholder when a transfer of ownership occurs, the subordinate lienholder shall either mail or deliver or cause to be mailed or delivered, a completed notice of lien to the department of revenue, accompanied**

by authorization from the first lienholder. The owner shall ensure the subordinate lienholder is recorded on the application for title at the time the application is made to the department of revenue. To perfect a lien for a subordinate lienholder when there is no transfer of ownership, the owner or lienholder in possession of the certificate, shall either mail or deliver or cause to be mailed or delivered, the owner's application for title, certificate, notice of lien, authorization from the first lienholder and title fee to the department of revenue. The delivery of the certificate and executing a notice of authorization to add a subordinate lien does not affect the rights of the first lienholder under the security agreement;

(4) Upon receipt of the [certificate, application and the required fee] **documents and fee required in subdivision (3) of this section**, the director of revenue shall issue a new certificate of ownership containing the name and address of the new lienholder, and shall mail the certificate as prescribed in section 301.610 or if a lienholder who has elected for the director of revenue to retain possession of an electronic certificate of ownership the lienholder shall either mail or deliver to the director a notice of authorization for the director to add a subordinate lienholder to the existing certificate. Upon receipt of such authorization [and], a notice of lien **and required documents and title fee, if applicable**, from a subordinate lienholder, the director shall add the subordinate lienholder to the certificate of ownership being electronically retained by the director and provide confirmation of the addition to both lienholders;

(5) **Failure of the owner to name the lienholder in the application for title, as provided in this section is a class A misdemeanor.**

301.630. LIEN OR ENCUMBRANCE, ASSIGNMENT, PROCEDURE, EFFECT OF — PERFECTION OF ASSIGNMENT, HOW, FEE — FORM FOR NOTICE OF ELECTRONIC CERTIFICATE. — 1. A lienholder may assign, absolutely or otherwise, his or her lien or encumbrance in the motor vehicle or trailer to a person other than the owner without affecting the interest of the owner or the validity or effect of the lien or encumbrance, but any person without notice of the assignment is protected in dealing with the lienholder as the holder of the lien or encumbrance and the lienholder remains liable for any obligations as lienholder until the assignee is named as lienholder on the certificate.

2. The assignee may, but need not, to perfect the assignment, have the certificate of ownership endorsed or issued with the assignee named as lienholder, upon delivering to the director of revenue the certificate and an assignment by the lienholder named in the certificate in the form the director of revenue prescribes the application and the required fee.

3. If the certificate of ownership is being electronically retained by the director of revenue, the original lienholder may mail or deliver a notice of assignment of a lien to the director in a form prescribed by the director. Upon receipt of notice of assignment the director shall update the electronic certificate of ownership to reflect the assignment of the lien and lienholder.

301.640. RELEASE OF LIENHOLDERS' RIGHTS UPON SATISFACTION OF LIEN OR ENCUMBRANCE, PROCEDURE — ISSUANCE OF NEW CERTIFICATE OF OWNERSHIP — CERTAIN LIENS DEEMED SATISFIED, WHEN — PENALTY. — 1. Upon the satisfaction of any lien or encumbrance of a motor vehicle or trailer [for which the certificate of ownership is in possession of the lienholder], the lienholder shall, within ten business days release the lien or encumbrance on the certificate **or a separate document**, and mail or deliver the certificate [to the next lienholder named therein, or, if none,] **or a separate document** to the owner or any person who delivers to the lienholder an authorization from the owner to receive the certificate **or such documentation. The release on the certificate or separate document shall be notarized. Each perfected subordinate lienholder if any, shall release such lien or encumbrance as provided in this section for the first lienholder.** The owner may cause the certificate to be mailed or delivered to the director of revenue, who shall issue a new certificate of ownership upon application and payment of the required fee. A lien or encumbrance shall be

satisfied for the purposes of this section when a lienholder receives payment in full in the form of certified funds, as defined in section 381.410, RSMo.

2. If the electronic certificate of ownership is in the possession of the director of revenue, the lienholder shall notify the director within ten business days of any release of a lien and provide the director with the most current address of the owner. The director shall note such release on the electronic certificate and if no other lien exists the director shall mail or deliver the certificate free of any lien to the owner.

3. [Upon the satisfaction of any lien or encumbrance in a motor vehicle or trailer for which a certificate is in possession of a prior lienholder, the lienholder whose lien or encumbrance is satisfied shall within ten business days release the lien or encumbrance on the certificate and deliver the certificate to the owner or any person who delivers to the lienholder an authorization from the owner to receive it. The lienholder in possession of the certificate shall at the request of the owner and upon surrender of the certificate of title by the owner and receipt of the required fee, either mail or deliver the certificate of ownership to the director of revenue, or deliver the certificate to the owner, or the person authorized by the owner, for delivery to the director of revenue, who shall issue a new certificate.

4.] If the purchase price of a motor vehicle or trailer did not exceed six thousand dollars at the time of purchase, a lien or encumbrance which was not perfected by a motor vehicle financing corporation whose net worth exceeds one hundred million dollars, or a depository institution, shall be considered satisfied within six years from the date the lien or encumbrance was originally perfected unless a new lien or encumbrance has been perfected as provided in section 301.600. This subsection does not apply to motor vehicles or trailers for which the certificate of ownership has recorded in the second lienholder portion the words "subject to future advances".

[5.] 4. Any lienholder who fails to comply with subsection 1[,] or 2 [or 3] of this section shall pay to the person or persons satisfying the lien or encumbrance twenty-five dollars for the first ten business days after expiration of the time period prescribed in subsection 1[,] or 2 [or 3] of this section, and such payment shall double for each ten days thereafter in which there is continued noncompliance, up to a maximum of five hundred dollars for each lien. If delivery of the certificate **or other lien release** is made by mail, the delivery date is the date of the postmark for purposes of this subsection.

5. Any person who knowingly and intentionally sends in a separate document releasing a lien of another without authority to do so shall be guilty of a class C felony.

301.660. LAW NOT TO AFFECT EXISTING RIGHTS, DUTIES AND INTERESTS. — All transactions involving liens or encumbrances on motor vehicles or trailers entered into before [July 1, 1991] **July 1, 2003**, and the rights, duties and interests flowing from them remain valid thereafter and may be terminated, completed, consummated or enforced as required or permitted by any statute or other law amended or repealed by sections 301.600 to 301.660 as though the repeal or amendment had not occurred.

306.400. LIENS AND ENCUMBRANCES — VALID, PERFECTED, WHEN, HOW, FUTURE ADVANCES — BOATS AND MOTORS SUBJECT TO, WHEN, HOW DETERMINED — REVENUE TO ESTABLISH SECURITY PROCEDURE, ELECTRONIC NOTICES, RULEMAKING AUTHORITY. — 1. As used in sections 306.400 to 306.440, the terms "motorboat", "vessel", and "watercraft" shall have the same meanings given them in section 306.010, and the term "outboard motor" shall include outboard motors governed by section 306.530.

2. Unless excepted by section 306.425, a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft shall not be valid against subsequent transferees or lienholders of the outboard motor, motorboat, vessel or watercraft, who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 306.400 to 306.430.

3. A lien or encumbrance on an outboard motor, motorboat, vessel or watercraft is perfected by the delivery to the director of revenue of a notice of lien in a format as prescribed by the director. Such lien or encumbrance shall be perfected as of the time of its creation if the delivery of the items required in this subsection to the director of revenue is completed within thirty days thereafter, otherwise such lien or encumbrance shall be perfected as of the time of the delivery. A notice of lien shall contain the name and address of the owner of the outboard motor, motorboat, vessel or watercraft and the secured party, a description of the outboard motor, motorboat, vessel or watercraft motor, including any identification number, and such other information as the department of revenue may prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. **Provided the lienholder submits complete and legible documents, the director of revenue shall mail confirmation or electronically confirm receipt of each notice of lien to the lienholder as soon as possible, but no later than fifteen business days after the filing of the notice of lien.**

4. Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the future advance lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" in the second lienholder's portion of the notice of lien. To secure future advances when an existing lien on an outboard motor, motorboat, vessel or watercraft does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows. Proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted for by the department of revenue, and returned to the lienholder.

5. Whether an outboard motor, motorboat, vessel, or watercraft is subject to a lien or encumbrance shall be determined by the laws of the jurisdiction where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrances attached that the outboard motor, motorboat, vessel, or watercraft would be kept in this state and it is brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state shall be determined by the laws of this state;

(2) If the lien or encumbrance was perfected pursuant to the laws of the jurisdiction where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, his or her lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by the jurisdiction, the lien or encumbrance continues perfected in this state for three months after the first certificate of title of the outboard motor, motorboat, vessel, or watercraft is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period, in which case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected pursuant to the laws of the jurisdiction where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance attached, it may be perfected in this state, in which case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected pursuant to paragraph (b) of subdivision (2) or subdivision (3) of this subsection in the same manner as provided in subsection 3 of this section.

6. The director of revenue shall by rules and regulations establish a security procedure to verify that an electronic notice or lien or notice of satisfaction of a lien on an outboard motor, motorboat, vessel or watercraft given pursuant to sections 306.400 to 306.440 is that of the lienholder, to verify that an electronic notice of confirmation of ownership and perfection of a lien given pursuant to section 306.410 is that of the director of revenue and to detect error in the transmission or the content of any such notice. Such a security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself constitute a security procedure.

306.405. CERTIFICATES OF TITLE, DELIVERY OF, HOW, TO WHOM — LIENHOLDER MAY ELECT TO HAVE REVENUE RETAIN ELECTRONIC TITLE. — 1. All certificates of title of an outboard motor, motorboat, vessel, or watercraft issued by the director of revenue shall be mailed [or confirmation of such ownership shall be electronically transmitted or mailed to the first lienholder named in such certificate or, if no lienholder is named,] to the owner named therein. **If the certificate of ownership is being held electronically by the director of revenue at the election of a lienholder, then confirmation of such ownership shall be electronically transmitted or mailed to the first lienholder named in such certificate.**

2. A lienholder may elect to have the director of revenue retain possession of an electronic certificate of title and the director shall issue regulations to govern the procedure for making such an election. Each such certificate of title shall require a separate election unless the director provides otherwise by regulation. A subordinate lienholder shall be bound by the election of the superior lienholder with respect to the certificate involved.

3. "Electronic certificate of title" means any electronic record of ownership, including liens that may be recorded.

306.410. DUTIES OF PARTIES UPON CREATION OF LIEN OR ENCUMBRANCE — FAILURE OF OWNER TO PERFORM CERTAIN DUTIES, PENALTY. — If an owner creates a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft:

(1) The owner shall immediately execute the application, either in the space provided therefor on the certificate of title or on a separate form the director of revenue prescribes, to name the lienholder on the certificate of title, showing the name and address of the lienholder and the date of his or her security agreement, and shall cause the certificate of title, the application and the required fee to be mailed or delivered to the director of revenue. Failure of the owner to do so is a class A misdemeanor;

(2) The lienholder or an authorized agent licensed pursuant to sections 301.112 to 301.119, RSMo, shall deliver to the director of revenue a notice of lien as prescribed by the director accompanied by all other necessary documentation to perfect a lien pursuant to section 306.400;

(3) [Upon request of the owner or subordinate lienholder, a lienholder in possession of the certificate of title who receives the owner's application and required fee shall mail or deliver the certificate of title, application, and fee to the director of revenue, unless such certificate of title secures future advance liens. The delivery of the certificate of title to the director of revenue shall not affect the rights of the first lienholder under his or her security agreement] **To perfect a lien for a subordinate lienholder when a transfer of ownership occurs, the subordinate lienholder shall either mail or deliver or cause to be mailed or delivered, a completed notice of lien to the department of revenue, accompanied by authorization from the first lienholder. The owner shall ensure the subordinate lienholder is recorded on the application for title at the time the application is made to the department of revenue. To perfect a lien for a subordinate lienholder when there is no transfer of ownership, the owner or lienholder in possession of the certificate, shall either mail or deliver or cause to be mailed or delivered, the owner's application for title, certificate, notice of lien, authorization from the first lienholder and title fee to the department of revenue. The**

delivery of the certificate and executing a notice of authorization to add a subordinate lien does not affect the rights of the first lienholder under the security agreement;

(4) Upon receipt of the [certificate of title, application and the required fee] **documents and fee required in subdivision (3) of this section**, the director of revenue shall issue a new certificate of title containing the name and address of the new lienholder, and mail the certificate of title to the first lienholder named in it or if a lienholder has elected to have the director of revenue retain possession of an electronic certificate of title, the lienholder shall either mail or deliver to the director a notice of authorization for the director to add a subordinate lienholder to the existing certificate **as prescribed in section 306.405**. Upon receipt of such authorization and a notice of lien from a subordinate lienholder, the director shall add the subordinate lienholder to the certificate of title being electronically retained by the director and provide confirmation of the addition to both lienholders.

306.420. SATISFACTION OF LIEN OR ENCUMBRANCE, RELEASE OF, PROCEDURE — DUTIES OF LIENHOLDER AND DIRECTOR OF REVENUE — PENALTY FOR UNAUTHORIZED RELEASE OF A LIEN. — 1. Upon the satisfaction of a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft [for which the certificate of title is in the possession of the lienholder and provided the owner waives any rights to future advances subject to a lien in this chapter], the lienholder shall, within ten days [after demand and, in any event, within thirty days,] execute a release of his or her lien or encumbrance, **on the certificate or separate document**, and mail or deliver the certificate [and release to the next lienholder named therein, or, if no other lienholder is so named,] **or separate document** to the owner or any person who delivers to the lienholder an authorization from the owner to receive the [certificate.] **documentation. The release on the certificate or separate document shall be notarized. Each perfected subordinate lienholder, if any, shall release such lien or encumbrance as provided in this section for the first lienholder.** The owner may cause the certificate of title, the release, and the required fee to be mailed or delivered to the director of revenue, who shall release the lienholder's rights on the certificate and issue a new certificate of title.

2. [Upon the satisfaction of a second or third lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft for which the certificate of title is in the possession of the first lienholder, the lienholder whose lien or encumbrance is satisfied shall, within ten days after demand, and, in any event, within thirty days, execute a release and deliver the release to the owner or any person who delivers to the lienholder an authorization from the owner to receive it. The lienholder in possession of the certificate of title shall, at the request of the owner and upon receipt of the release and the required fee, either mail or deliver the certificate, the release, and the required fee to the director of revenue, or deliver the certificate of title to the owner, or the person authorized by him or her, for delivery of the certificate, the release and required fee to the director of revenue, who shall release the subordinate lienholder's rights on the certificate of title and issue a new certificate of title.

3.] If the electronic certificate of title is in the possession of the director of revenue, the lienholder shall notify the director within ten business days of any release of lien and provide the director with the most current address of the owner. The director shall note such release on the electronic certificate and if no other lien exists, the director shall mail or deliver the certificate free of any lien to the owner.

3. Any person who knowingly and intentionally sends in a separate document releasing a lien of another without authority to do so shall be guilty of a class C felony.

306.430. LIENS AND ENCUMBRANCES INCURRED BEFORE JULY 1, 2003 — HOW TERMINATED, COMPLETED AND ENFORCED. — All transactions involving liens or encumbrances on outboard motors, motorboats, vessels, or watercraft entered into before [April 1, 1986] **July 1, 2003**, and the rights, duties, and interests flowing from such transactions shall remain valid after [April 1, 1986] **July 1, 2003**, and may be terminated, completed, con-

summed, or enforced as required or permitted by any statute or other law amended or repealed by sections 306.400 to 306.430 as though such repeal or amendment had not occurred.

306.440. OWNER'S FAILURE TO INDICATE LIENHOLDER ON TITLE APPLICATION, PENALTY. — Failure by the owner to indicate the lienholder of a lien or encumbrance attached to the outboard motor, motorboat, vessel, or watercraft at time of making application for title is a class A misdemeanor.

365.070. RETAIL INSTALLMENT CONTRACTS TO BE IN WRITING — FORM, CONTENTS.

— 1. Each retail installment contract shall be in writing, shall be signed by both the buyer and the seller, and shall be completed as to all essential provisions prior to the signing of the contract by the buyer. In addition to the retail installment contract, the seller may require the buyer to execute and deliver a negotiable promissory note to evidence the indebtedness created by the retail installment transaction and the seller may require security for the payment of the indebtedness or the performance of any other condition of the transaction. Every note executed pursuant to a retail installment contract shall expressly state that it is subject to prepayment privilege required by law and the refund required by law in such cases. Any such note, if otherwise negotiable under the provisions of sections 400.3-101 to 400.3-805, RSMo, shall be negotiable. The retail installment contract may evidence the security.

2. The printed portion of the contract, other than instructions for completion, shall be in at least eight point type. The contract shall contain the following notice in a size equal to at least ten point bold type:

"Notice to the Buyer.

Do not sign this contract before you read it or if it contains any blank spaces.

You are entitled to an exact copy of the contract you sign.

Under the law you have the right to pay off in advance the full amount due and to obtain a partial refund of the time price differential."

3. The contract shall also contain, in a size equal to at least ten point bold type, a specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included if that is the case.

4. The seller shall deliver to the buyer, or mail to him at his address shown on the contract, a copy of the contract signed by the seller. Until the seller does so, a buyer who has not received delivery of the motor vehicle may rescind his agreement and receive a refund of all payments made and return of all goods traded in to the seller on account of or in contemplation of the contract, or if the goods cannot be returned, the value thereof. Any acknowledgment by the buyer of delivery of a copy of the contract shall be in a size equal to at least ten point bold type and, if contained in the contract, shall appear directly above the buyer's signature.

5. The contract shall contain the names of the seller and the buyer, the place of business of the seller, the residence of the buyer and a brief description of the motor vehicle including its make, year model, model and identification numbers or marks.

6. The contract shall contain the following items:

(1) The cash sale price of the motor vehicle;

(2) The amount of the buyer's down payment, and whether made in money or goods, or partly in money and partly in goods, including a brief description of the goods traded in;

(3) The difference between items one and two;

(4) The aggregate amount, if any, if a separate identified charge is made therefor, included for all insurance on the motor vehicle against loss, damage to or destruction of the motor vehicle, specifying the types of coverage and period;

(5) The aggregate amount, if any, if a separate identified charge is made therefor, included for all bodily injury and property damage liability insurance for injuries to the person or property of others, specifying the types of coverage and coverage period;

- (6) The aggregate amount, if any, if a separate identified charge is made therefor, included for all life, accident or health insurance, specifying the types of coverage and coverage period;
- (7) The amounts, if any, if a separate identified charge is made therefor, included for other insurance and benefits, specifying the types of coverage and benefits and the coverage periods and separately stating each amount for each insurance premium or benefit;
- (8) The amount of official fees;
- (9) The principal balance which is the sum of items (3), (4), (5), (6), (7) and (8);
- (10) The amount of the time price differential **expressed in the contract as a percent per annum**;
- (11) The total amount of the time balance stated as one sum in dollars and cents, which is the sum of items (9) and (10), payable in installments by the buyer to the seller, the number of installments, the amount of each installment and the due date or period thereof **based on the contract's original amortization schedule**; and
- (12) The time sale price. The above items need not be stated in the sequence or order set forth.

365.120. TIME PRICE DIFFERENTIAL, COMPUTED HOW. — 1. Notwithstanding the provisions of any other law, the time price differential included in a retail installment transaction [shall not exceed the following schedule:

Class 1. Any new motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is made — ten dollars per hundred dollars per year.

Class 2. Any new motor vehicle not in class 1 and any used motor vehicle designated by the manufacturer by a year model of the same or not more than two years prior to the year in which the sale is made — ten dollars per one hundred dollars per year.

Class 3. Any used motor vehicle not in class 2 and designated by the manufacturer by a year model more than two years prior to the year in which the sale is made — thirteen dollars per one hundred dollars per year] **on any motor vehicle without regard to the year model designated by the manufacturer, the retail seller may charge, contract and receive any time price differential agreed to by the retail buyer, expressed in the contract as a percent per annum that shall apply to the contract regardless of its repayment schedule.**

2. The time price differential shall be computed on the principal balance as [determined under subsection 6 of section 365.070 on contracts payable in successive monthly payments substantially equal in amount from the date of the contract until the maturity of the final installment, notwithstanding that the total time balance thereof is required to be paid in installments] **a percent per annum**. A minimum time price differential of twenty-five dollars may be charged on any retail installment transaction.

[3. When a retail installment contract provides for payment in other than substantially equal monthly installments, the time price differential may be at a rate which will provide the same return as is permitted on substantially equal monthly payment contracts under subsections 1 and 2, having due regard for the schedule of payments in the contract.]

407.850. DEFINITIONS. — As used in sections 407.850 to 407.885, the following terms mean:

- (1) "Current model", a model listed in the wholesaler's, manufacturer's or distributor's current sales manual or any supplements thereto;
- (2) "Current net price", the price listed in the wholesaler's, manufacturer's or distributor's price list or catalogue in effect at the time the contract is canceled or discontinued, less any applicable trade and cash discounts;
- (3) "Inventory", [farm] **equipment**, implements, machinery, attachments and repair parts;
- (4) "Net cost", the price the retailer actually paid for the merchandise to the wholesaler, manufacturer or distributor, plus freight from the wholesaler's, manufacturer's or distributor's location to the dealer's location;

(5) "Retailer", any person, firm or corporation engaged in the business of selling, repairing and retailing:

- (a) Farm implements, machinery, attachments or repair parts;
- (b) Industrial, maintenance and construction power equipment; or
- (c) Outdoor power equipment used for lawn, garden, golf course, landscaping or grounds maintenance;

but shall not include retailers of petroleum and motor vehicles and related automotive care and replacement products normally sold by such retailers.

407.860. INVENTORY QUALIFYING FOR REPURCHASE — PERCENTAGE TO BE PAID — COST OF TRANSPORTATION TO WAREHOUSE TO BE PAID BY RETAILER — PACKING AND LOADING, HOW PAID — TRANSFEREE OF MANUFACTURER OR DISTRIBUTORS, LAW TO APPLY, WHEN. —

1. The wholesaler, manufacturer or distributor shall repurchase that inventory previously purchased from him and held by the retailer at the date of termination of the contract. The provisions of sections 407.850 to 407.885 shall apply to the transferee of such wholesaler, manufacturer or distributor if such transferee acquired substantially all of the assets of such wholesaler, manufacturer or distributor. The wholesaler, manufacturer or distributor shall pay one hundred percent of the net cost of all new, unsold, undamaged and complete [farm] **equipment**, implements, machinery, and attachments and ninety-five percent of the current net price of all new, unused and undamaged repair parts. The retailer shall pay the cost of transportation to the nearest warehouse maintained by the wholesaler, manufacturer, or distributor, or to a mutually agreeable site. The wholesaler, manufacturer or distributor shall pay the retailer five percent of the current net price on all new, unused and undamaged repair parts returned to cover the cost of handling, packing and loading. The wholesaler, manufacturer or distributor shall have the option of performing the handling, packing and loading in lieu of paying the five percent for these services. The retailer shall pay the cost of transportation to the nearest warehouse maintained by the wholesaler, manufacturer, or distributor, or to a mutually agreeable site.

2. Upon payment of the repurchase amount to the retailer, the title and right of possession to the repurchased inventory shall transfer to the wholesaler, manufacturer or distributor.

407.870. INVENTORY WHICH DOES NOT QUALIFY FOR REPURCHASE. — The provisions of sections 407.850 to 407.885 shall not require the repurchase from a retailer of:

(1) Any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning;

(2) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of title, free and clear of all claims, liens and encumbrances;

(3) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;

(4) Any **equipment**, implements, machinery, and attachments which are not in new, unused, undamaged, or complete condition;

(5) Any repair parts which are not in new, unused, or undamaged condition;

(6) Any **equipment**, implements, machinery or attachments which were purchased twenty-four months or more prior to notice of termination of the contract;

(7) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract;

(8) Any inventory which was acquired by the retailer from any source other than the wholesaler, manufacturer or distributor or transferee of such wholesaler, manufacturer or distributor **unless such inventory was acquired from any source authorized or arranged by the manufacturer.**

454.516. LIEN ON MOTOR VEHICLES, BOATS, MOTORS, MANUFACTURED HOMES AND TRAILERS, WHEN, PROCEDURE — NOTICE, CONTENTS — REGISTRATION OF LIEN, RESTRICTIONS, REMOVAL OF LIEN — PUBLIC SALE, WHEN — GOOD FAITH PURCHASERS — CHILD SUPPORT LIEN DATABASE TO BE MAINTAINED. — 1. The director or IV-D agency may cause a lien pursuant to [subsection] **subsections 2 and 3** of this section or the obligee may cause a lien pursuant to subsection [9] **7** of this section for unpaid and delinquent child support to [be placed upon] **block the issuance of a certificate of ownership for** motor vehicles, motor boats, outboard motors, manufactured homes and trailers that are registered in the name of a delinquent child support obligor[, if the title to the property is held by a lienholder].

2. The director or IV-D agency shall notify the department of revenue with the required information necessary to impose a lien pursuant to this section by filing a notice of lien[, and the department of revenue shall notify the lienholder of the existence of such lien].

3. The **director or IV-D agency shall not notify the department of revenue and the** department of revenue shall not register [the] lien [unless] **except as provided in this subsection. After the director or IV-D agency decide that such lien qualifies pursuant to this section and forward it to the department of revenue, the director of revenue or the director's designee shall only file such lien against the obligor's certificate of ownership when:**

(1) The [director of revenue or the director's designee determines that the] obligor has unpaid child support which exceeds one thousand dollars;

(2) The property has a value of more than three thousand dollars as determined by current industry publications that provide such estimates to dealers in the business, and the property's year of manufacture is within seven years of the date of filing of the lien except in the case of a motor vehicle that has been designated a historic vehicle;

(3) The property has no more than two existing liens for child support;

(4) The property has had no more than three prior liens for child support in the same calendar year.

4. In the event that a lien is placed and the obligor's total support obligation is eliminated, the director shall notify the department of revenue that the lien shall be removed.

5. Upon notification [by the director] that a lien exists pursuant to this section, the department of revenue shall [send a sticker of impaired title in an envelope which says prominently "important legal document" to the lienholder] **register the lien on the records of the department of revenue.** Such [sticker] **registration** shall contain the type and model of the property[,] and the serial number of the property [and the identification number of the obligor and shall be properly affixed to the certificate of title by the lienholder].

6. Upon notification by the director that the lien shall be removed pursuant to subsection 4 of this section, the department of revenue shall [send a void sticker to the lienholder and such void sticker shall be properly affixed to the certificate of title by the lienholder covering the impaired title sticker. Such sticker] **register such removal of lien on its database, that** shall contain the type and model of the property[,] and the serial number of the property [and the identification number of the obligor].

7. [When a lienholder has received notice of a lien created by the division or IV-D agency pursuant to this section and the obligor thereafter satisfies the debt to that lienholder, the lienholder shall mail to the division or IV-D agency the certificate of ownership on the motor vehicle, motor boat, outboard motor, manufactured home or trailer. The division or IV-D agency may hold the certificate of ownership until the child support obligation is satisfied, or levy and execute on the motor vehicle, motor boat, outboard motor, manufactured home or trailer and sell same, at public sale, in order to satisfy the debt. A lienholder shall inform dealers in the business of motor vehicles, motor boats, manufactured homes and trailers, upon request, of the existence or nonexistence of a lien imposed by the division pursuant to this section.

8.] A good faith purchaser for value without notice of the lien or a lender without notice of the lien takes free of the lien.

[9.] **8.** In cases which are not IV-D cases, to cause a lien pursuant to the provisions of this section the obligee or the obligee's attorney shall file notice of the lien with the [lienholder or payor] **department of revenue**. This notice shall have attached a certified copy of the court order with all modifications and a sworn statement by the obligee or a certified statement from the court attesting to or certifying the amount of arrearages.

9. Notwithstanding any other law to the contrary, the department of revenue shall maintain a child support lien database that may be collected against the owner on a certificate of ownership provided for by chapters 301, 306 and 700, RSMo. To determine any existing liens for child support pursuant to this section, the lienholder, dealer or buyer may inquire electronically into the database. A good faith purchaser for value without notice of the lien or a lender without notice of the lien takes free of the lien.

700.350. LIENS AND ENCUMBRANCES — VALID, PERFECTED, WHEN, HOW — HOME SUBJECT TO, WHEN, HOW DETERMINED — SECURITY PROCEDURES — VALIDITY OF PRIOR TRANSACTIONS. — 1. As used in sections 700.350 to 700.390, the term "manufactured home" shall have the same meanings given it in section 700.010 **or section 400.9-102(a)(53), RSMo.**

2. Unless excepted by section 700.375, a lien or encumbrance on a manufactured home shall not be valid against subsequent transferees or lienholders of the manufactured home who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 700.350 to 700.380.

3. A lien or encumbrance on a manufactured home is perfected by the delivery to the director of revenue[, by the owner, of the existing certificate of ownership, if any, an application for a certificate of ownership containing the name and address of the lienholder and the date of his security agreement, and the required certificate of ownership fee] **of a notice of lien in a format as prescribed by the director of revenue.** Such lien or encumbrance shall be perfected as of the time of its creation if the delivery [of the items] **of the notice of lien** required in this subsection to the director of revenue is completed within thirty days thereafter, otherwise such lien or encumbrance shall be perfected as of the time of the delivery. **A notice of lien shall contain the name and address of the owner of the manufactured home and the secured party, a description of the manufactured home, including any identification number and such other information as the department of revenue shall prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.** Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the **future advance** lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" [in the second lienholder's portion of the title application] **in the notice of lien** and noted on the certificate of ownership if the motor vehicle or trailer is subject to only one lien. **To secure future advances when an existing lien on a manufactured home does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows: proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted by the department of revenue, and returned to the lienholder.**

4. Whether a manufactured home is subject to a lien or encumbrance shall be determined by the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrances attached that the manufactured home would be kept in this state and it is brought into this state within thirty days

thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state shall be determined by the laws of this state;

(2) If the lien or encumbrance was perfected under the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, his lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by the jurisdiction, the lien or encumbrance continues perfected in this state for three months after the first certificate of title of the manufactured home is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period, in which case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected under the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, it may be perfected in this state, in which case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected under paragraph (b) of subdivision (2) or subdivision (3) of this subsection in the same manner as provided in subsection 3 of this section **or by the lienholder delivering to the director or revenue a notice of lien or encumbrance in the form the director prescribes and the required fee.**

5. By rules and regulations, the director of revenue shall establish a security procedure for the purpose of verifying that an electronic notice of lien or notice of satisfaction of lien on a manufactured home given as permitted in this chapter is that of the lienholder, verifying that an electronic notice of confirmation of ownership and perfection of a lien given as required in this chapter is that of the director of revenue, and detecting error in the transmission or the content of such notice. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, call back procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself be a security procedure.

6. All transactions involving liens or encumbrances on manufactured homes perfected pursuant to sections 700.350 to 700.390 after June 30, 2001, and before August 28, 2002, and the rights, duties, and interests flowing from them are and shall remain valid thereafter and may be terminated, completed, consummated, or enforced as required or permitted by section 400.9-303, RSMo, or this section. Section 400.9-303, RSMo, and this section are remedial in nature and shall be given that construction.

7. The repeal and reenactment of subsections 3 and 4 of this section shall become effective July 1, 2003.

700.355. CERTIFICATES OF TITLE, DELIVERY OF, HOW, TO WHOM — ELECTION FOR DIRECTOR TO RETAIN POSSESSION, PROCEDURE. — [All certificates of title to a manufactured home issued by the director of revenue shall be mailed or otherwise delivered to the first lienholder named in such certificate or, if no lienholder is named, to the owner named therein.]

1. A certificate of title to the manufactured home when issued by the director of revenue shall be mailed or confirmation of such title shall be electronically transmitted or mailed to the owner shown on the face of the title of such manufactured home. Provided the lienholder submits complete and legible documents, the director of revenue shall mail confirmation or electronically confirm receipt of each notice of lien to the lienholder as soon as possible, but no later than fifteen business days after the filing of the notice of lien.

2. A lienholder may elect that the director of revenue retain possession of an electronic certificate of title, and the director shall issue regulations to cover the procedure by which such election is made. Each such certificate of title shall require a separate election, unless the director provides otherwise by regulation. A subordinate lienholder

shall be bound by the election of the superior lienholder with respect to the certificate involved.

3. "Electronic certificate of ownership" means any electronic record of title, including a lien or liens that may be recorded.

700.360. CREATION OF LIEN OR ENCUMBRANCE BY OWNER, DUTIES, FAILURE TO PERFORM, PENALTY — SUBORDINATE LIENHOLDERS, PERFECTION PROCEDURE — NEW CERTIFICATE ISSUED, WHEN. — If an owner creates a lien or encumbrance on a manufactured home:

(1) The owner shall immediately execute the application, either in the space provided therefor on the certificate of title or on a separate form the director of revenue prescribes, to name the lienholder on the certificate of title, showing the name and address of the lienholder and the date of his security agreement, and shall cause the certificate of title, the application and the required fee to be mailed or delivered to the director of revenue. Failure of the owner to do so, **including naming the lienholder in such application**, is a class A misdemeanor;

(2) [Upon request of The owner or subordinate lienholder, a lienholder in possession of the certificate of title who receives the owner's application and required fee shall mail or deliver the certificate of title, application, and fee to the director of revenue. The delivery of the certificate of title to the director of revenue shall not affect the rights of the first lienholder under his security agreement;

(3) Upon receipt of the certificate of title, application and the required fee, the director of revenue shall issue a new certificate of title containing the name and address of the new lienholder, and mail the certificate of title to the first lienholder named in it.] **The lienholder or an authorized agent licensed pursuant to sections 301.112 to 301.119, RSMo, shall deliver to the director of revenue a notice of lien as prescribed by the director accompanied by all other necessary documentation to perfect a lien as provided in this section;**

(3) To perfect a lien for a subordinate lienholder when a transfer of ownership occurs, the subordinate lienholder shall either mail or deliver or cause to be mailed or delivered, a completed notice of lien to the department of revenue, accompanied by authorization from the first lienholder. The owner shall ensure the subordinate lienholder is recorded on the application for title at the time the application is made to the department of revenue. To perfect a lien for a subordinate lienholder when there is no transfer of ownership, the owner or lienholder in possession of the certificate, shall either mail or deliver or cause to be mailed or delivered, the owner's application for title, certificate, notice of lien, authorization from the first lienholder and title fee to the department of revenue. The delivery of the certificate and executing a notice of authorization to add a subordinate lien does not affect the rights of the first lienholder under the security agreement;

(4) Upon receipt of the documents and fee required in subdivision (3) of this section, the director of revenue shall issue a new certificate of ownership containing the name and address of the new lienholder, and shall mail the certificate as prescribed in section 700.355, or if a lienholder who has elected for the director of revenue to retain possession of an electronic certificate of ownership the lienholder shall either mail or deliver to the director a notice of authorization for the director to add a subordinate lienholder to the existing certificate. Upon receipt of such authorization, a notice of lien and required documents and title fee, if applicable, from a subordinate lienholder, the director shall add the subordinate lienholder to the certificate of ownership being electronically retained by the director and provide confirmation of the addition to both lienholders.

700.365. ASSIGNMENT OF LIEN OR ENCUMBRANCE BY LIENHOLDER, RIGHTS AND OBLIGATIONS — PERFECTION BY ASSIGNEE, HOW. — 1. A lienholder may assign, absolutely or otherwise, his lien or encumbrance on the manufactured home to a person other than the

owner without affecting the interest of the owner or the validity or effect of the lien or encumbrance, but any person without notice of the assignment is protected in dealing with the lienholder as the holder of the lien or encumbrance and the lienholder shall remain liable for any obligations as lienholder until the assignee is named as lienholder on the certificate of title.

2. An assignee under subsection 1 of this section may, but need not to perfect the assignment, have the certificate of title issued with the assignee named as lienholder, upon delivering to the director of revenue the certificate of title, an assignment by the lienholder named in the certificate of title, and the required fee in the form the director of revenue prescribes.

3. If the certificate of ownership is being electronically retained by the director of revenue, the original lienholder may mail or deliver a notice of assignment of a lien to the director in a form prescribed by the director. Upon receipt of notice of assignment, the director shall update the electronic certificate of ownership to reflect the assignment of the lien and lienholder.

700.370. SATISFACTION OF LIEN OR ENCUMBRANCE, RELEASE OF, PROCEDURE. — [1.]

Upon the satisfaction of a lien or encumbrance on a manufactured home [for which the certificate of title is in the possession of the lienholder], the lienholder shall, within ten days after demand, [and, in any event, within thirty days, execute a] release [of his] **the** lien or encumbrance **on the certificate or a separate document**, and mail or deliver the certificate [and release to the next lienholder named therein, or, if no other lienholder is so named] **or separate document**, to the owner or any person who delivers to the lienholder an authorization from the owner to receive the certificate **or separate document**. **Each perfected subordinate lienholder, if any, shall release such lien or encumbrance as provided in this section for the first lienholder. The release on the certificate or separate document shall be notarized.** The owner may cause the certificate of title, the release, and the required fee to be mailed or delivered to the director of revenue, who shall release the lienholder's rights on the certificate and issue a new certificate of title.

[2. Upon the satisfaction of a second or third lien or encumbrance on a manufactured home for which the certificate of title is in the possession of the first lienholder, the lienholder whose lien or encumbrance is satisfied shall, within ten days after demand, and, in any event, within thirty days, execute a release and deliver the release to the owner or any person who delivers to the lienholder an authorization from the owner to receive it. The lienholder in possession of the certificate of title shall, at the request of the owner and upon receipt of the release and the required fee, either mail or deliver the certificate, the release, and the required fee to the director of revenue, or deliver the certificate of title to the owner, or the person authorized by him, for delivery of the certificate, the release and required fee to the director of revenue, who shall release the subordinate lienholder's rights on the certificate of title and issue a new certificate of title.]

700.380. LIENS AND ENCUMBRANCES INCURRED BEFORE JULY 1, 2003 — HOW TERMINATED, COMPLETED AND ENFORCED. — All transactions involving liens or encumbrances on manufactured homes entered into before [December 31, 1985] **July 1, 2003**, and the rights, duties, and interests flowing from such transactions shall remain valid [after December 31, 1985] **thereafter**, and may be terminated, completed, consummated, or enforced as required or permitted by any statute or other law amended or repealed by sections 700.350 to 700.380 as though such repeal or amendment had not occurred.

[301.661. CHANGES IN CERTAIN SECTIONS REMEDIAL. — The changes in sections 301.190, 301.610, 301.620, 301.630 and 301.640 made through the provisions of house bill no. 884, as enacted in the second regular session of the eighty-sixth general assembly are remedial and should be given that construction.]

[407.750. INDUSTRIAL MAINTENANCE AND CONSTRUCTION POWER EQUIPMENT, REPURCHASE OF ON CANCELLATION OF CONTRACT, WHEN, AMOUNT, PAYMENTS MADE, WHEN — EXCEPTIONS. — Whenever any person, firm, or corporation engaged in the business of selling and repairing industrial, maintenance and construction power equipment enters into a written or parol contract whereby such retailer agrees to maintain a stock of parts or machines or equipment or attachments with any wholesaler, manufacturer, or distributor of industrial, maintenance and construction power equipment used for industrial, maintenance or construction applications and either such wholesaler, manufacturer, or distributor desires to cancel or discontinue the contract, such wholesaler, manufacturer, or distributor shall pay to such retailer, unless the retailer should desire to keep such merchandise, a sum equal to ninety percent of the net cost of all new, unused, undamaged and complete industrial, maintenance and construction power equipment used for industrial, maintenance and construction applications including transportation charges which have been paid by such retailer, and ninety percent of the current net price on new, unused and undamaged repair parts at the price listed in the current price lists or catalogues, which parts had previously been purchased from such wholesaler, manufacturer, or distributor in the previous two years, and held by such retailer on the date of the cancellation of such contract. Any parts in a dealer's inventory for more than two years shall be returned for ninety percent of his original purchase cost. "Net cost" means the price the retailer actually paid for the equipment. "Current net price" means the price listed in the manufacturer's, wholesaler's or distributor's price list or catalogue in effect on the date of termination, less any applicable trade or cash discounts. Upon the payment of the sum equal to ninety percent of the net cost of such equipment and ninety percent of the current net price on the repair parts, the title to such machinery and repair parts shall pass to the manufacturer, wholesaler or distributor making such payment, and such manufacturer, wholesaler, or distributor shall be entitled to the possession of such equipment and repair parts. All payments required to be made under the provisions of this section must be made within ninety days after the return of the machinery or repair parts. After ninety days, all payments or allowances shall include interest at the rate stated in section 408.040, RSMo. The provisions of this section shall not require the repurchase from a retailer of:

- (1) Any repair part which has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets or batteries;
- (2) Any repair part which is in a broken or damaged package;
- (3) Any single repair part which is priced as a set of two or more items;
- (4) Any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning;
- (5) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of title, free and clear of all claims, liens and encumbrances;
- (6) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;
- (7) Any implements, machinery, and attachments which are not in new, unused, undamaged, or complete condition;
- (8) Any repair parts which are not in new, unused, or undamaged condition;
- (9) Any implements, machinery or attachments which were purchased twenty-four months or more prior to notice of termination of the contract;
- (10) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract;
- (11) Any inventory which was acquired by the retailer from any source other than the wholesaler, manufacturer or distributor or transferee of such wholesaler, manufacturer or distributor;
- (12) Any part that has been removed from an engine or short block or piece of equipment or any part that has been mounted or installed on an engine or on equipment.]

[407.751. REMEDY UNDER CONTRACT, RETAILER MAY PURSUE AS ALTERNATIVE — NOT A BAR TO ACTION UNDER REPURCHASE LAW, WHEN. — The provisions of section 407.750 shall be supplemental to any agreement between the retailer and the manufacturer, wholesaler or distributor covering the return of equipment and repair parts. The retailer may elect to pursue either his contract remedy or the remedy provided herein, and an election by the retailer to pursue his contract remedy shall not bar his right to the remedy provided herein as to those equipment and repair parts not affected by the contract remedy.]

[407.752. FAILURE TO MAKE PAYMENT, CIVIL ACTION AUTHORIZED. — In the event that any manufacturer, wholesaler, or distributor of machinery and repair parts for industrial, maintenance and construction power equipment used for industrial, maintenance and construction applications, upon cancellation of a contract by either a retailer or a manufacturer, wholesaler, or distributor, fails or refuses to make payment to such dealer as required by the provisions of section 407.750, such manufacturer, wholesaler, or distributor shall be liable in a civil action to the retailer for costs of litigation and attorney's fees and for one hundred percent of the net cost of such machinery, plus transportation charges which have been paid by the retailer and one hundred percent of the current net price of the repair parts.]

[407.890. OUTDOOR POWER EQUIPMENT, REPURCHASE OF ON CANCELLATION OF CONTRACT, WHEN, AMOUNT — PAYMENTS MADE, WHEN — EXCEPTIONS. — Whenever any person, firm, or corporation engaged in the business of selling and repairing outdoor power equipment used for lawn, garden, golf course, landscaping or grounds maintenance, enters into a written or parol contract whereby such retailer agrees to maintain a stock of parts or machines or equipment or attachments with any wholesaler, manufacturer, or distributor of outdoor power equipment used for lawn, garden, golf course, landscaping or grounds maintenance, and either such wholesaler, manufacturer, or distributor desires to cancel or discontinue the contract, such wholesaler, manufacturer, or distributor shall pay to such retailer, unless the retailer should desire to keep such merchandise, a sum equal to ninety percent of the net cost of all new, unused, undamaged and complete outdoor power equipment used for lawn, garden, golf course, landscaping or grounds maintenance, including transportation charges which have been paid by such retailer, and ninety percent of the current net price on new, unused and undamaged repair parts at the price listed in the current price lists or catalogues, which parts had previously been purchased from such wholesaler, manufacturer, or distributor in the previous two years, and held by such retailer on the date of the cancellation of such contract. Any parts in dealer's inventory for more than two years shall be returned for ninety percent of his original purchase cost. "Net cost" means the price the retailer actually paid for the equipment. "Current net price" means the price listed in the manufacturer's, wholesaler's or distributor's price list or catalogue in effect on the date of termination, less any applicable trade or cash discounts. Upon the payment of the sum equal to ninety percent of the net cost of such equipment and ninety percent of the current net price on the repair parts, the title to such machinery and repair parts shall pass to the manufacturer, wholesaler or distributor making such payment, and such manufacturer, wholesaler, or distributor shall be entitled to the possession of such equipment and repair parts. All payments required to be made under the provisions of this section must be made within ninety days after the return of the machinery or repair parts. After ninety days, all payments or allowances shall include interest at the rate stated in section 408.040, RSMo. The provisions of this section shall not require the repurchase from a retailer of:

- (1) Any repair part which has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets or batteries;
 - (2) Any repair part which is in a broken or damaged package;
 - (3) Any single repair part which is priced as a set of two or more items;
 - (4) Any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning;
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(5) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of title, free and clear of all claims, liens and encumbrances;

(6) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;

(7) Any implements, machinery, and attachments which are not in new, unused, undamaged, or complete condition;

(8) Any repair parts which are not in new, unused, or undamaged condition;

(9) Any implements, machinery or attachments which were purchased twenty-four months or more prior to notice of termination of the contract;

(10) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract;

(11) Any inventory which was acquired by the retailer from any source other than the wholesaler, manufacturer or distributor or transferee of such wholesaler, manufacturer or distributor;

(12) Any part that has been removed from an engine or short block or piece of equipment or any part that has been mounted or installed on an engine or on equipment.]

[407.892. REMEDY UNDER CONTRACT, RETAILER MAY PURSUE AS ALTERNATIVE TO LAW. — The provisions of section 407.890 shall be supplemental to any agreement between the retailer and the manufacturer, wholesaler or distributor covering the return of equipment and repair parts. The retailer may elect to pursue either his contract remedy or the remedy provided herein, and an election by the retailer to pursue his contract remedy shall not bar his right to remedy provided herein as to those equipment and repair parts not affected by the contract remedy.]

[407.893. FAILURE TO MAKE PAYMENT, CIVIL ACTION AUTHORIZED. — In the event that any manufacturer, wholesaler, or distributor of machinery and repair parts for outdoor power equipment used for lawn, garden, golf course, landscaping or ground maintenance, upon cancellation of a contract by either a retailer or a manufacturer, wholesaler, or distributor, fails or refuses to make payment to such dealer as required by the provisions of section 407.890, such manufacturer, wholesaler, or distributor shall be liable in a civil action to the retailer for costs of litigation and attorneys' fees and for one hundred percent of the net cost of such machinery, plus transportation charges which have been paid by the retailer and one hundred percent of the current net price of the repair parts.]

[700.390. FAILURE TO INDICATE LIENHOLDER ON TITLE APPLICATION — PENALTY. — Failure by the owner to indicate the lienholder of a lien or encumbrance attached to the manufactured home at time of making application for title is a class A misdemeanor.]

Approved July 12, 2002

HB 2009 [SCS HB 2009]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises application for licensure process for motor vehicle dealers, manufacturers, and auctions.

AN ACT to repeal section 301.560, RSMo, and to enact in lieu thereof one new section relating to requirements for licensure of motor vehicle dealers, manufacturers, and auctions.

SECTION

A. Enacting clause.

301.560. Application requirements, additional — bonds, fees, signs required — license number, certificate of numbers — duplicate dealer plates, issues, fees — test driving motor vehicles and vessels, use of plates.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 301.560, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.560, to read as follows:

301.560. APPLICATION REQUIREMENTS, ADDITIONAL — BONDS, FEES, SIGNS REQUIRED — LICENSE NUMBER, CERTIFICATE OF NUMBERS — DUPLICATE DEALER PLATES, ISSUES, FEES — TEST DRIVING MOTOR VEHICLES AND VESSELS, USE OF PLATES. — 1. In addition to the application forms prescribed by the department, each applicant shall submit the following to the department:

(1) When the application is being made for licensure as a manufacturer, boat manufacturer, motor vehicle dealer, boat dealer, wholesale motor vehicle dealer, wholesale motor vehicle auction or a public motor vehicle auction, a certification by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located; except, that in counties of the first classification, certification may be authorized by an officer of a metropolitan police department when the applicant's established place of business of distributing or selling motor vehicles or trailers is in the metropolitan area where the certifying metropolitan police officer is employed, that the applicant has a bona fide established place of business. A bona fide established place of business for any new motor vehicle franchise dealer or used motor vehicle dealer shall include a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for the selling, bartering, trading or exchanging of motor vehicles or trailers and wherein the public may contact the owner or operator at any reasonable time, and wherein shall be kept and maintained the books, records, files and other matters required and necessary to conduct the business. The applicant's place of business shall contain a working telephone which shall be maintained during the entire registration year. In order to qualify as a bona fide established place of business for all applicants licensed pursuant to this section there shall be an exterior sign displayed carrying the name [and class] of the business [conducted] **set forth** in letters at least six inches in height and clearly visible to the public and there shall be an area or lot which shall not be a public street on which one or more vehicles may be displayed, except when licensure is for a wholesale motor vehicle dealer, a lot and sign shall not be required. **The sign shall contain the name of the dealership by which it is known to the public through advertising or otherwise, which need not be identical to the name appearing on the dealership's license so long as such name is registered as a fictitious name with the secretary of state, has been approved by its line-make manufacturer in writing in the case of a new motor vehicle franchise dealer and a copy of such fictitious name registration has been provided to the department.** When licensure is for a boat dealer, a lot shall not be required. In the case of new motor vehicle franchise dealers, the bona fide established place of business shall include adequate facilities, tools and personnel necessary to properly service and repair motor vehicles and trailers under their franchisor's warranty;

(2) If the application is for licensure as a manufacturer, boat manufacturer, new motor vehicle franchise dealer, used motor vehicle dealer, wholesale motor vehicle auction, boat dealer or a public motor vehicle auction, a photograph, not to exceed eight inches by ten inches, showing the business building and sign shall accompany the initial application. In the case of a manufacturer, new motor vehicle franchise dealer or used motor vehicle dealer, the photograph

shall include the lot of the business. A new motor vehicle franchise dealer applicant who has purchased a currently licensed new motor vehicle franchised dealership shall be allowed to submit a photograph of the existing dealership building, lot and sign but shall be required to submit a new photograph upon the installation of the new dealership sign as required by sections 301.550 to 301.573. Applicants shall not be required to submit a photograph annually unless the business has moved from its previously licensed location, or unless the name of the business or address has changed, or unless the class of business has changed;

(3) If the application is for licensure as a wholesale motor vehicle dealer or as a boat dealer, the application shall contain the business address, not a post office box, and telephone number of the place where the books, records, files and other matters required and necessary to conduct the business are located and where the same may be inspected during normal daytime business hours. Wholesale motor vehicle dealers and boat dealers shall file reports as required of new franchised motor vehicle dealers and used motor vehicle dealers;

(4) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer, a wholesale motor vehicle dealer, or boat dealer shall furnish with the application a corporate surety bond or an irrevocable letter of credit as defined in section 400.5-103, RSMo, issued by any state or federal financial institution in the penal sum of twenty-five thousand dollars on a form approved by the department. The bond or irrevocable letter of credit shall be conditioned upon the dealer complying with the provisions of the statutes applicable to new motor vehicle franchise dealers, used motor vehicle dealers, wholesale motor vehicle dealers and boat dealers, and the bond shall be an indemnity for any loss sustained by reason of the acts of the person bonded when such acts constitute grounds for the suspension or revocation of the dealer's license. The bond shall be executed in the name of the state of Missouri for the benefit of all aggrieved parties or the irrevocable letter of credit shall name the state of Missouri as the beneficiary; except, that the aggregate liability of the surety or financial institution to the aggrieved parties shall, in no event, exceed the amount of the bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter of credit shall be paid upon receipt by the department of a final judgment from a Missouri court of competent jurisdiction against the principal and in favor of an aggrieved party;

(5) Payment of all necessary license fees as established by the department. In establishing the amount of the annual license fees, the department shall, as near as possible, produce sufficient total income to offset operational expenses of the department relating to the administration of sections 301.550 to 301.573. All fees payable pursuant to the provisions of sections 301.550 to 301.573, other than those fees collected for the issuance of dealer plates or certificates of number collected pursuant to subsection 6 of this section, shall be collected by the department for deposit in the state treasury to the credit of the "Motor Vehicle Commission Fund", which is hereby created. The motor vehicle commission fund shall be administered by the Missouri department of revenue. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in such fund shall not be transferred and placed to the credit of the general revenue fund until the amount in the motor vehicle commission fund at the end of the biennium exceeds two times the amount of the appropriation from such fund for the preceding fiscal year or, if the department requires permit renewal less frequently than yearly, then three times the appropriation from such fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the multiple of the appropriation from such fund for the preceding fiscal year.

2. In the event a new manufacturer, boat manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor vehicle auction or a public motor vehicle auction submits an application for a license for a new business and the applicant has complied with all the provisions of this section, the department shall make a decision to grant or deny the license to the applicant within eight working hours after receipt of the dealer's application, notwithstanding any rule of the department.

3. Upon the initial issuance of a license by the department, the department shall assign a distinctive dealer license number or certificate of number to the applicant and the department shall issue one number plate or certificate bearing the distinctive dealer license number or certificate of number within eight working hours after presentment of the application. Upon the renewal of a boat dealer, boat manufacturer, manufacturer, motor vehicle dealer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction, the department shall issue the distinctive dealer license number or certificate of number as quickly as possible. The issuance of such distinctive dealer license number or certificate of number shall be in lieu of registering each motor vehicle, trailer, vessel or vessel trailer dealt with by a boat dealer, boat manufacturer, manufacturer, public motor vehicle auction, wholesale motor vehicle dealer, wholesale motor vehicle auction or motor vehicle dealer.

4. Notwithstanding any other provision of the law to the contrary, the department shall assign the following distinctive dealer license numbers to:

New motor vehicle franchise dealers	D-0 through D-999
New motor vehicle franchise and commercial motor vehicle dealers	D-1000 through D-1999
Used motor vehicle dealers	D-2000 through D-5399 and D-6000 through D-9999
Wholesale motor vehicle dealers.	W-1000 through W-1999
Wholesale motor vehicle auctions.	W-2000 through W-2999
Trailer dealers.	T-0 through T-9999
Motor vehicle and trailer manufacturers	M-0 through M-9999
Motorcycle dealers	D-5400 through D-5999
Public motor vehicle auctions	A-1000 through A-1999
Boat dealers and boat manufacturers.	B-0 through B-9999

5. Upon the sale of a currently licensed new motor vehicle franchise dealership the department shall, upon request, authorize the new approved dealer applicant to retain the selling dealer's license number and shall cause the new dealer's records to indicate such transfer.

6. In the case of manufacturers and motor vehicle dealers, the department shall also issue one number plate bearing the distinctive dealer license number to the applicant upon payment by the manufacturer or dealer of a fifty-dollar fee. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Boat dealers and boat manufacturers shall be entitled to one certificate of number bearing such number upon the payment of a fifty-dollar fee. As many additional number plates as may be desired by manufacturers and motor vehicle dealers and as many additional certificates of number as may be desired by boat dealers and boat manufacturers may be obtained upon payment of a fee of ten dollars and fifty cents for each additional plate or certificate. A motor vehicle dealer, boat dealer, manufacturer, boat manufacturer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction obtaining a dealer license plate or certificate of number or additional license plate or additional certificate of number, throughout the calendar year, shall be required to pay a fee for such license plates or certificates of number computed on the basis of one-twelfth of the full fee prescribed for the original and duplicate number plates or certificates of number for such dealers' licenses, multiplied by the number of months remaining in the licensing period for which the dealer or manufacturers shall be required to be licensed. In the event of a renewing dealer, the fee due at the time of renewal shall not be prorated.

7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any motor vehicle owned and held for resale by the motor vehicle dealer or manufacturer, and used by a customer who is test driving the motor vehicle, or is used by an employee or officer, but shall not be displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly

used service or wrecker vehicle. Motor vehicle dealers may display their dealer plates on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition.

8. The certificates of number issued pursuant to subsection 3 or 6 of this section may be displayed on any vessel or vessel trailer owned and held for resale by a boat manufacturer or a boat dealer, and used by a customer who is test driving the vessel or vessel trailer, or is used by an employee or officer, but shall not be displayed on any vessel or vessel trailer hired or loaned to others or upon any regularly used service vessel or vessel trailer. Boat dealers and manufacturers may display their certificate of number on a vessel or vessel trailer which is being transported to an exhibit or show.

Approved July 12, 2002

HB 2018 [HB 2018]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires county clerk of Jackson County to forward tax books for school districts by June 15.

AN ACT to repeal section 137.245, RSMo, and to enact in lieu thereof one new section relating to tax books for school districts.

SECTION

A. Enacting clause.

137.245. Assessor to prepare and return assessor's book, verification — clerk to abstract — failure, a misdemeanor — clerk to forward copy of valuations, to whom, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 137.245, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.245, to read as follows:

137.245. ASSESSOR TO PREPARE AND RETURN ASSESSOR'S BOOK, VERIFICATION — CLERK TO ABSTRACT — FAILURE, A MISDEMEANOR — CLERK TO FORWARD COPY OF VALUATIONS, TO WHOM, WHEN. — 1. The assessor, except in St. Louis City, shall make out and return to the county governing body, on or before the thirty-first day of May in every year, the assessor's book, verified by [his] **an** affidavit annexed thereto, in the following words:

"..... being duly sworn, makes oath and says that [he] **such person** has made diligent efforts to ascertain all the taxable property being or situate, on the first day of January last past, in the county of which [he] **such person** is assessor; that, so far as [he] **such person** has been able to ascertain the same, it is correctly set forth in the foregoing book, in the manner and the value thereof stated therein, according to the mode required by law".

2. The clerk of the county governing body shall immediately make out an abstract of the assessment book, showing aggregate footings of the different columns, so as to set forth the aggregate amounts of the different kinds of real and tangible personal property and the valuation thereof, and forward the abstract to the state tax commission. Failure of the clerk to make out and forward the abstract to the state tax commission on or before the twentieth day of June is a misdemeanor.

3. The clerk of the county governing body in all counties, and the assessor in St. Louis City, shall make out an abstract of the assessment book showing the aggregate amounts of different kinds of real, personal and other tangible property and the valuations of each for each political subdivision in the county entitled to levy ad valorem taxes on property except for municipalities maintaining their own tax or assessment books. The clerk of each county, and the assessor in St. Louis City, shall forward a copy of the aggregate valuation listed in the tax book for each political subdivision, except counties and municipalities maintaining their own tax or assessment books, to the governing body of the subdivision by the first day of July of each year. In any county which contains a city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first classification, the clerk of the county shall provide the final revised assessed valuation listed in the tax book for each school district within the county to each such district on or before the fifteenth day of August of each year. **The clerk of any county of the first classification with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants shall forward a copy of the aggregate valuation listed in the tax book for school districts within the county to each such district by the fifteenth day of June of each year.**

Approved July 3, 2002

HB 2022 [SCS HB 2022]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Reenacts section 178.870, relating to community college property tax rates, to cure possible constitutional defects.

AN ACT to repeal section 178.870, RSMo, relating to increases and decreases of certain tax rates, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 178.870. Tax rates, limits — how increased and decreased.
- 178.881. Community college capital improvement subdistrict may be established, boundaries, taxation — ballot language — dissolution of subdistrict.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 178.870, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 178.870 and 178.881, to read as follows:

178.870. TAX RATES, LIMITS — HOW INCREASED AND DECREASED. — [Any tax imposed on property subject to the taxing power of the junior college district under article X, section 11(a) of the constitution without voter approval shall not exceed the annual rate of ten cents on the hundred dollars assessed valuation in districts having one billion five hundred million dollars or more assessed valuation; twenty cents on the hundred dollars assessed valuation in districts having seven hundred fifty million dollars but less than one billion five hundred million dollars assessed valuation; thirty cents on the hundred dollars assessed valuation in districts having five hundred million dollars but less than seven hundred fifty million dollars assessed valuation; forty

cents on the hundred dollars assessed valuation in districts having less than five hundred million dollars assessed valuation; except that, no public junior college district having an assessed valuation in excess of one hundred million and less than two hundred fifty million which is levying an operating levy of thirty cents per one hundred dollars assessed valuation on September 28, 1975, shall increase such levy above thirty cents per one hundred dollars assessed valuation without voter approval. Tax rates specified in this section that were in effect in 1984 shall not be lowered due to an increase in assessed valuation created by general reassessment; however, the provisions of section 137.073, RSMo, or section 22(a) of article X of the Missouri Constitution are applicable. Districts which operate institutions awarding degrees above the associate degree shall not be affected by the changes provided in this section. Increases of the rate with voter approval shall be made in the manner provided in chapter 164, RSMo, for school districts] **Any tax imposed on property subject to the taxing power of the junior college district under article X, section 11(a) of the Missouri Constitution without voter approval shall not exceed the annual rate of ten cents on the hundred dollars assessed valuation in districts having one billion five hundred million dollars or more assessed valuation; twenty cents on the hundred dollars assessed valuation in districts having seven hundred fifty million dollars but less than one billion five hundred million dollars assessed valuation; thirty cents on the hundred dollars assessed valuation in districts having five hundred million dollars but less than seven hundred fifty million dollars assessed valuation; forty cents on the hundred dollars assessed valuation in districts having less than five hundred million dollars assessed valuation; except that, no public junior college district having an assessed valuation in excess of one hundred million and less than two hundred fifty million which is levying an operating levy of thirty cents per one hundred dollars assessed valuation on September 28, 1975, shall increase such levy above thirty cents per one hundred dollars assessed valuation without voter approval. Tax rates specified in this section that were in effect in 1984 shall not be lowered due to an increase in assessed valuation created by general reassessment; however, the provisions of section 137.073, RSMo, or section 22(a) of article X of the Missouri Constitution are applicable. Districts which operate institutions awarding degrees above the associate degree shall not be affected by the changes provided in this section. Increases of the rate with voter approval shall be made in the manner provided in chapter 164, RSMo, for school districts.**

178.881. COMMUNITY COLLEGE CAPITAL IMPROVEMENT SUBDISTRICT MAY BE ESTABLISHED, BOUNDARIES, TAXATION — BALLOT LANGUAGE — DISSOLUTION OF SUBDISTRICT. — 1. The board of trustees of any public community college district in this state may establish a community college capital improvement subdistrict by its order for the sole purpose of capital projects. The boundaries of any capital improvement subdistrict established pursuant to this section shall be within the boundaries of the community college district.

2. In the event a capital improvement subdistrict is so established, the board of trustees may propose an annual rate of taxation for the sole purpose of capital projects, within the limits of sections 178.770 to 178.891, which proposal shall be submitted to a vote of the people within the capital improvement subdistrict.

3. The question shall be submitted in substantially the following form:

Shall the board of trustees of (name of district) be authorized, for the purpose of (name of capital project), to borrow money in the amount of dollars to be used in the capital improvement subdistrict of (name of capital improvement subdistrict) for the purpose of (name of capital project) and issue bonds for payment thereof?

[] YES

[] NO

4. If a majority of the votes cast on the question are for the tax as submitted, the tax shall be levied and collected on property within the capital improvement subdistrict in the

same manner as other community college district taxes. Such funds shall be used for capital improvements in the community college capital improvement subdistrict.

5. Where a tax has not been approved by the voters within a five year period from the establishment of a community college capital improvement subdistrict, such capital improvement subdistrict shall be dissolved by the board of trustees.

Approved June 18, 2002

HB 2023 [SS HB 2023]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises language relating to challenges of a disciplinary change of placement and process of appeal of a hearing panel's decision.

AN ACT to repeal sections 162.670, 162.675, 162.961 and 162.962, RSMo, and to enact in lieu thereof four new sections relating to the appropriate educational placement of students.

SECTION

- A. Enacting clause.
- 162.670. Statement of policy.
- 162.675. Definitions.
- 162.961. Resolution conference, conducted how — waiver of review, effect — attorney, capacity — hearing before panel, members and chairman chosen, how — written report — expedited hearing — forty-five day placement.
- 162.962. Decision subject to review, when, procedure.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 162.670, 162.675, 162.961 and 162.962 , RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 162.670, 162.675, 162.961 and 162.962, to read as follows:

162.670. STATEMENT OF POLICY. — In order to fully implement section 1(a) of article IX, constitution of Missouri, 1945, providing for the establishment and maintenance of free public schools for gratuitous instruction of all persons in this state within ages not in excess of twenty-one years as prescribed by law, it is hereby declared the policy of the state of Missouri to provide or to require public schools to provide to all handicapped and severely handicapped children within the ages prescribed herein, as an integral part of Missouri's system of gratuitous education, [special educational services sufficient to meet the needs and maximize the capabilities of handicapped and severely handicapped children] **a free appropriate education consistent with the provisions set forth in state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400 et seq. and any amendments thereto.** The need of such children for early recognition, diagnosis and intensive educational services leading to more successful participation in home, employment and community life is recognized. The timely implementation of this policy is declared to be an integral part of the policy of this state.

162.675. DEFINITIONS. — As used in sections 162.670 to 162.995, unless the context clearly indicates otherwise, the following terms mean:

(1) "Gifted children", children who exhibit precocious development of mental capacity and learning potential as determined by competent professional evaluation to the extent that continued educational growth and stimulation could best be served by an academic environment beyond that offered through a standard grade level curriculum;

(2) "Handicapped children", children under the age of twenty-one years who have not completed an approved high school program and who, because of mental, physical, emotional or learning problems, require special educational services [in order to develop to their maximum capacity];

(3) "Severely handicapped children", handicapped children under the age of twenty-one years who, because of the extent of the handicapping condition or conditions, as determined by competent professional evaluation, are unable to benefit from or meaningfully participate in programs in the public schools for handicapped children. The term "severely handicapped" is not confined to a separate and specific category but pertains to the degree of disability which permeates a variety of handicapping conditions and education programs;

(4) "Special educational services", programs designed to meet the needs [and maximize the capabilities] of handicapped or severely handicapped children and which include, but are not limited to, the provision of diagnostic and evaluation services, student and parent counseling, itinerant, homebound and referral assistance, organized instructional and therapeutic programs, transportation, and corrective and supporting services.

162.961. RESOLUTION CONFERENCE, CONDUCTED HOW — WAIVER OF REVIEW, EFFECT — ATTORNEY, CAPACITY — HEARING BEFORE PANEL, MEMBERS AND CHAIRMAN CHOSEN, HOW — WRITTEN REPORT — EXPEDITED HEARING — FORTY-FIVE DAY PLACEMENT. — 1. The resolution conference provided for in section 162.950 shall be conducted by the chief administrative officer of the responsible school district or a designee. The conference shall be informal, witnesses need not be sworn and a record of the proceedings need not be made. The school district or the state department of elementary and secondary education shall see that the parent or guardian or his representative is advised of and permitted to review all diagnoses, evaluations and reevaluations obtained by the board of education or the state department of elementary and secondary education which pertain to the child. The school district or state department of elementary and secondary education shall fully advise the parents or guardian or their representative of each reason relied upon by it in taking the proposed action. The parents or guardian or their representative may present any information whether written or oral to the officer which pertains to the recommended action. Questioning of all witnesses shall be permitted.

2. The resolution conference may be waived by the parents or guardian. If the parent or guardian waives the resolution conference and requests a three-member panel hearing, the state board of education shall empower such a panel pursuant to subsection 3 of this section. That empowerment shall take place within fifteen days of the request for the three-member panel hearing.

3. A parent, guardian or the responsible educational agency may request a due process hearing by the state board of education with respect to any matter relating to identification, evaluation, educational placement, or the provision of a free appropriate public education of the child. Such request shall include the child's name, address, school, issue, and suggested resolution of dispute if known. Except as provided in subsection 6 of this section, the board or its delegated representative shall within fifteen days after receiving notice empower a hearing panel of three persons who are not directly connected with the original decision and who are not employees of the board to which the appeal has been made. All of the panel members shall have some knowledge or training involving children with disabilities, none shall have a personal or professional interest which would conflict with his or her objectivity in the hearing, and all shall meet the department of elementary and secondary education's training and assessment requirements pursuant to state regulations. One person shall be chosen by the local school district

board or its delegated representative or the responsible educational agency, and one person shall be chosen at the recommendation of the parent or guardian. If either party has not chosen a panel member ten days after the receipt by the department of elementary and secondary education of the request for a due process hearing, such panel member shall be chosen instead by the department of elementary and secondary education. Each of these two panel members shall be compensated pursuant to a rate set by the department of elementary and secondary education. The third person shall be appointed by the state board of education and shall serve as the chairperson of the panel. The chairperson shall be an attorney licensed to practice law in this state. During the pendency of any three-member panel hearing, or prior to the empowerment of the panel, the parties may, by mutual agreement, submit their dispute to a mediator pursuant to section 162.959.

4. The parent or guardian, school official, and other persons affected by the action in question shall present to the hearing panel all pertinent evidence relative to the matter under appeal. All rights and privileges as described in section 162.963 shall be permitted.

5. After review of all evidence presented and a proper deliberation, the hearing panel, within forty-five days of receipt of the request for a due process hearing, except as provided in subsection 6 of this section relating to expedited hearings, shall by majority vote determine its findings, conclusions, and decision in the matter in question and forward the written decision to the parents or guardian of the child and to the president of the appropriate local board of education or responsible educational agency and to the department of elementary and secondary education. A specific extension of the time line may be made by the chairman at the request of either party, except in the case of an expedited hearing as provided in subsection 6 of this section.

6. An expedited due process hearing by the state board of education may be requested by a parent to challenge a [discipline] **disciplinary change of placement** [to an interim alternative educational setting,] or to challenge a manifestation determination in connection with a disciplinary [action involving a forty-five day placement for weapons, drugs, or because the child is a danger to himself or others,] **change of placement** or by a responsible educational agency to seek a forty-five day alternative educational placement for a dangerous or violent student. The board or its delegated representative shall appoint a hearing officer to hear the case and render a decision within the time line required by federal law and state regulations implementing federal law. The hearing officer shall be an attorney licensed to practice law in this state. The hearing officer shall have some knowledge or training involving children with disabilities, shall not have a personal or professional interest which would conflict with his or her objectivity in the hearing, and shall meet the department of elementary and secondary education's training and assessment requirements pursuant to state regulations. A specific extension of the time line is only permissible to the extent consistent with federal law and pursuant to state regulations.

7. If the responsible public agency requests a due process hearing to seek a forty-five day alternative educational placement for a dangerous or violent student, the agency shall show by substantial evidence that there is a substantial likelihood the student will injure himself or others and that the agency made reasonable efforts to minimize that risk, and shall show that the forty-five day alternative educational placement will provide a free appropriate public education which includes services and modifications to address the behavior so that it does not reoccur, and continue to allow [access to] **progress in** the general education curriculum.

162.962. DECISION SUBJECT TO REVIEW, WHEN, PROCEDURE. — In a case where review of the hearing panel's decision is sought by a school district or a parent or guardian, either party may appeal as [provided in chapter 536, RSMo.] **follows:**

(1) **The court shall hear the case without a jury and except as otherwise provided in subsection 4 of 536.140, RSMo, shall hear it upon the petition and record filed as provided in sections 162.950 to 162.961;**

(2) **The inquiry may extend to a determination of whether the action of the agency:**

(a) **Is in violation of constitutional provisions;**

- (b) Is unsupported by competent and substantial evidence upon the entire record;
- (c) Is made upon unlawful procedure or without a fair trial;
- (d) Is arbitrary, capricious, or unreasonable; or
- (e) Involves an abuse of discretion.

Approved May 28, 2002

HB 2039 [HB 2039]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes any county, city, or village to designate memorial highways for law enforcement officers killed in the line of duty.

AN ACT to amend chapter 229, RSMo, by adding thereto one new section relating to memorial streets and roads.

SECTION

- A. Enacting clause.
- 229.222. Designation of a certain road or highway as a memorial road for law enforcement officer killed in the line of duty.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 229, RSMo, is amended by adding thereto one new section, to be known as section 229.222, to read as follows:

229.222. DESIGNATION OF A CERTAIN ROAD OR HIGHWAY AS A MEMORIAL ROAD FOR LAW ENFORCEMENT OFFICER KILLED IN THE LINE OF DUTY. — **The governing assembly of any county, city, or village of this state may designate any street, road, or highway within such county, city, or village as a memorial road for any law enforcement officer who is killed in the line of duty. Any county, city, or village designating a memorial road pursuant to this section shall provide for and shall be responsible for the costs, erection, and maintenance of any signs marking the designated road.**

Approved July 3, 2002

HB 2047 [SCS HB 2047]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows students of public institutions of higher education who are members of the National Guard called to active service to be eligible to receive a refund of tuition.

AN ACT to repeal sections 41.150 and 41.948, RSMo, and to enact in lieu thereof two new sections relating to military forces.

SECTION

- A. Enacting clause.
- 41.150. Assistant adjutants general — appointment — duties — compensation.
- 41.948. Student of higher education called to active military service — option for refund or incomplete grade — requirements — rules and regulations, promulgation, procedure.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 41.150 and 41.948, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 41.150 and 41.948, to read as follows:

41.150. ASSISTANT ADJUTANTS GENERAL — APPOINTMENT — DUTIES — COMPENSATION. — The adjutant general may assign two assistant adjutants general in the grade of brigadier general or below, one from the ground forces and the other from the air forces of this state, **as well as a third assistant adjutant general in the grade of major general or below from the air forces of this state**, who, at the time of their appointment, have not less than four years of previous military service as a commissioned officer with the military forces of this state, another state or territory, the District of Columbia or the United States, or in any or all such services combined. The assistant adjutants general shall perform such duties as are assigned by the adjutant general; and during the absence of the adjutant general from the state, and during any period when [he] **the adjutant general** is unable to perform [his] **such** duties, the senior assistant adjutant general may perform the duties of the adjutant general. The assistant adjutants general shall **serve in the grade and** receive such compensation as the adjutant general determines.

41.948. STUDENT OF HIGHER EDUCATION CALLED TO ACTIVE MILITARY SERVICE — OPTION FOR REFUND OR INCOMPLETE GRADE — REQUIREMENTS — RULES AND REGULATIONS, PROMULGATION, PROCEDURE. — 1. In the 1990-91 academic year and in any subsequent academic year, when any person who is enrolled as a student in a public higher education institution in Missouri is called[, under] **into service of the United States pursuant to 32 U.S.C. 502(f)(1), section 41.470 or 41.480 or the authority of [10 U.S.C. 672(d) or 10 U.S.C. 673b] 10 U.S.C. 12301(d) or 10 U.S.C. 12304** or any such subsequent call or order by the President or the Congress, to active service in the armed forces of the United States, whether voluntarily or involuntarily, not including active service for training, prior to the completion of the semester, or similar grading period, that person shall be eligible for either:

(1) A complete refund of all tuition and incidental fees charged for enrollment at that institution for that semester, or similar grading period; or

(2) The awarding of a grade of "incomplete" pursuant to this section.

2. If such person has been awarded a scholarship to be used to pursue an academic program in any public higher education institution in Missouri and such person is unable to complete the academic term for which the scholarship is granted, that person shall be awarded that scholarship at any subsequent academic term, provided that the person returns to the academic program at the same institution at the beginning of the next academic term after the completion of active military service.

3. If the person chooses the option described in subdivision (1) of subsection 1 of this section, [he] **such person** may request that the official transcript indicate the courses from which [he] **such person** has withdrawn and the reason for the withdrawal, or [he] **such person** may request that all course titles be expunged from [his] **such person's** record. Choosing the option of a refund shall not affect the person's official academic record or standing at the public higher education institution.

4. If the person chooses the option described in subdivision (2) of subsection 1 of this section, [he] **such person** shall complete the course work to the satisfaction of the course

instructor and the institution. The grade of incomplete shall be converted to a failing grade if the person does not apply to complete the course work within six months of discharge or release from active military service. In the event the person cannot comply for medical reasons related to the active military service, [he] **such person** shall apply to complete the course work within three months of the end of the period of convalescence. Choosing the option of taking a grade of incomplete shall not affect the person's official academic record or standing at the public institution of higher education, unless the person fails to complete the course work. At the time the grade of incomplete is converted to a final grade, the person may choose either to have the grade of incomplete expunged from his official record or to have the grade of incomplete remain with the final grade and the reason for the grade of incomplete.

5. The coordinating board for higher education shall promulgate rules for the implementation of this section. For the purposes of this section, the term "public higher education institution" shall include public community colleges and state-supported institutions of higher education.

6. Notwithstanding any other provisions of this section to the contrary, nothing in this section shall be construed to prevent the governing body of any public higher education institution from enacting an academic policy more lenient in nature than the provisions of subsections 1 to 4 of this section.

7. [No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.**

Approved July 3, 2002

HB 2062 [HB 2062]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises various provisions relating to restricted driving privilege.

AN ACT to repeal sections 302.010, 302.304, 302.525, 302.535, 302.540, and 577.041, RSMo, and to enact in lieu thereof six new sections relating to restricted driving privilege.

SECTION

- A. Enacting clause.
- 302.010. Definitions.
- 302.304. Notice of points — suspension or revocation of license, when, duration — reinstatement, condition, point reduction, fee — failure to maintain proof of financial responsibility, effect — point reduction prior to conviction, effect — surrender of license — reinstatement of license when drugs or alcohol involved, assignment recommendation, judicial review — fees for program — supplemental fees.
- 302.525. Suspension or revocation, when effective, duration — restricted driving privilege — effect of suspension or revocation by court on charges arising out of same occurrence.

- 302.535. Trial de novo, conduct, venue, what judge may hear, when — restricted driving privilege, when, duration of.
- 302.540. Reinstatement of license — completion of substance abuse traffic offender program a condition — individual assessment, judicial review — fees and cost, distribution of — treatment demonstration project may be created.
- 577.041. Refusal to submit to chemical test — notice, report of peace officer, contents — revocation of license, hearing — evidence, admissibility — reinstatement of licenses — substance abuse traffic offender program — assignment recommendations, judicial review — fees.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 302.010, 302.304, 302.525, 302.535, 302.540, and 577.041, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 302.010, 302.304, 302.525, 302.535, 302.540, and 577.041, to read as follows:

302.010. DEFINITIONS. — Except where otherwise provided, when used in this chapter, the following words and phrases mean:

- (1) "Circuit court", each circuit court in the state;
 - (2) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than fifteen passengers;
 - (3) "Conviction", any final conviction; also a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction, except that when any conviction as a result of which points are assessed pursuant to section 302.302 is appealed, the term "conviction" means the original judgment of conviction for the purpose of determining the assessment of points, and the date of final judgment affirming the conviction shall be the date determining the beginning of any license suspension or revocation pursuant to section 302.304;
 - (4) "Director", the director of revenue acting directly or through the director's authorized officers and agents;
 - (5) "Farm tractor", every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry;
 - (6) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways, or alleys in any municipality;
 - (7) "Incompetent to drive a motor vehicle", a person who has become physically incapable of meeting the prescribed requirements of an examination for an operator's license, or who has been adjudged by a probate division of the circuit court in a capacity hearing of being incapacitated;
 - (8) "License", a license issued by a state to a person which authorizes a person to operate a motor vehicle;
 - (9) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks except motorized bicycles, as defined in section 307.180, RSMo;
 - (10) "Motorcycle", a motor vehicle operated on two wheels; however, this definition shall not include motorized bicycles as defined in section 301.010, RSMo;
 - (11) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle operated with any conveyance, temporary or otherwise, requiring the use of a third wheel;
 - (12) "Moving violation", that character of traffic violation where at the time of violation the motor vehicle involved is in motion, except that the term does not include the driving of a motor vehicle without a valid motor vehicle registration license, or violations of sections 304.170 to 304.240, RSMo, inclusive, relating to sizes and weights of vehicles;
 - (13) "Municipal court", every division of the circuit court having original jurisdiction to try persons for violations of city ordinances;
 - (14) "Nonresident", every person who is not a resident of this state;
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(15) "Operator", every person who is in actual physical control of a motor vehicle upon a highway;

(16) "Owner", a person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of sections 302.010 to 302.540;

(17) "Record" includes, but is not limited to, papers, documents, facsimile information, microphotographic process, electronically generated or electronically recorded information, digitized images, deposited or filed with the department of revenue;

(18) **"Restricted driving privilege", a driving privilege issued by the director of revenue following a suspension of driving privileges for the limited purpose of driving in connection with the driver's business, occupation, employment, formal program of secondary, postsecondary or higher education, or for an alcohol education or treatment program.**

(19) "School bus", when used in sections 302.010 to 302.540, means any motor vehicle, either publicly or privately owned, used to transport students to and from school, or to transport pupils properly chaperoned to and from any place within the state for educational purposes. The term "school bus" shall not include a bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interstate transportation of passengers when such bus is not traveling a specific school bus route but is:

(a) On a regularly scheduled route for the transportation of fare-paying passengers; or

(b) Furnishing charter service for the transportation of persons enrolled as students on field trips or other special trips or in connection with other special events;

[(19)] (20) "School bus operator", an operator who operates a school bus as defined in subdivision (18) of this section in the transportation of any school children and who receives compensation for such service. The term "school bus operator" shall not include any person who transports school children as an incident to employment with a school or school district, such as a teacher, coach, administrator, secretary, school nurse, or janitor unless such person is under contract with or employed by a school or school district as a school bus operator;

[(20)] (21) "Signature", any method determined by the director of revenue for the signing, subscribing or verifying of a record, report, application, driver's license, or other related document that shall have the same validity and consequences as the actual signing by the person providing the record, report, application, driver's license or related document;

[(21)] (22) "Substance abuse traffic offender program", a program certified by the division of alcohol and drug abuse of the department of mental health to provide education or rehabilitation services pursuant to a professional assessment screening to identify the individual needs of the person who has been referred to the program as the result of an alcohol or drug related traffic offense. Successful completion of such a program includes participation in any education or rehabilitation program required to meet the needs identified in the assessment screening. The assignment recommendations based upon such assessment shall be subject to judicial review as provided in subsection 13 of section 302.304 and subsections 1 and 5 of section 302.540;

[(22)] (23) "Vehicle", any mechanical device on wheels, designed primarily for use, or used on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons.

302.304. NOTICE OF POINTS — SUSPENSION OR REVOCATION OF LICENSE, WHEN, DURATION — REINSTATEMENT, CONDITION, POINT REDUCTION, FEE — FAILURE TO MAINTAIN PROOF OF FINANCIAL RESPONSIBILITY, EFFECT — POINT REDUCTION PRIOR TO

CONVICTION, EFFECT — SURRENDER OF LICENSE — REINSTATEMENT OF LICENSE WHEN DRUGS OR ALCOHOL INVOLVED, ASSIGNMENT RECOMMENDATION, JUDICIAL REVIEW — FEES FOR PROGRAM — SUPPLEMENTAL FEES. —

1. The director shall notify by ordinary mail any operator of the point value charged against the operator's record when the record shows four or more points have been accumulated in a twelve-month period.

2. In an action to suspend or revoke a license or driving privilege under this section points shall be accumulated on the date of conviction. No case file of any conviction for a driving violation for which points may be assessed pursuant to section 302.302 may be closed until such time as a copy of the record of such conviction is forwarded to the department of revenue.

3. The director shall suspend the license and driving privileges of any person whose driving record shows the driver has accumulated eight points in eighteen months.

4. The license and driving privilege of any person whose license and driving privilege have been suspended under the provisions of sections 302.010 to 302.540 except those persons whose license and driving privilege have been suspended under the provisions of subdivision (8) of subsection 1 of section 302.302 or has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 and who has filed proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, and is otherwise eligible, shall be reinstated as follows:

- (1) In the case of an initial suspension, thirty days after the effective date of the suspension;
- (2) In the case of a second suspension, sixty days after the effective date of the suspension;
- (3) In the case of the third and subsequent suspensions, ninety days after the effective date of the suspension.

Unless proof of financial responsibility is filed with the department of revenue, a suspension shall continue in effect for two years from its effective date.

5. The period of suspension of the driver's license and driving privilege of any person under the provisions of subdivision (8) of subsection 1 of section 302.302 or who has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 shall be thirty days, followed by a sixty-day period of restricted driving privilege [issued by the director of revenue for the limited purpose of driving between a residence and a place of employment, or to and from an alcohol education or treatment program, or for both between a residence and a place of employment and to and from such a program] **as defined in section 302.010**. Upon completion of such period of restricted driving privilege, upon compliance with other requirements of law and upon filing of proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, the license and driving privilege shall be reinstated.

6. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's driving privilege and license shall be resuspended.

7. The director shall revoke the license and driving privilege of any person when the person's driving record shows such person has accumulated twelve points in twelve months or eighteen points in twenty-four months or twenty-four points in thirty-six months. The revocation period of any person whose license and driving privilege have been revoked under the provisions of sections 302.010 to 302.540 and who has filed proof of financial responsibility with the department of revenue in accordance with chapter 303, RSMo, and is otherwise eligible, shall be terminated by a notice from the director of revenue after one year from the effective date of the revocation. Unless proof of financial responsibility is filed with the department of revenue, except as provided in subsection 2 of section 302.541, the revocation shall remain in effect for a period of two years from its effective date. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's license and driving privilege shall be rerevoked. Any person whose license and driving privilege have been revoked under the provisions of sections 302.010 to 302.540 shall, upon receipt of the notice of termination of

the revocation from the director, pass the complete driver examination and apply for a new license before again operating a motor vehicle upon the highways of this state.

8. If, prior to conviction for an offense that would require suspension or revocation of a person's license under the provisions of this section, the person's total points accumulated are reduced, pursuant to the provisions of section 302.306, below the number of points required for suspension or revocation pursuant to the provisions of this section, then the person's license shall not be suspended or revoked until the necessary points are again obtained and accumulated.

9. If any person shall neglect or refuse to surrender the person's license, as provided herein, the director shall direct the state highway patrol or any peace or police officer to secure possession thereof and return it to the director.

10. Upon the issuance of a reinstatement or termination notice after a suspension or revocation of any person's license and driving privilege under the provisions of sections 302.010 to 302.540, the accumulated point value shall be reduced to four points, except that the points of any person serving as a member of the armed forces of the United States outside the limits of the United States during a period of suspension or revocation shall be reduced to zero upon the date of the reinstatement or termination of notice. It shall be the responsibility of such member of the armed forces to submit copies of official orders to the director of revenue to substantiate such overseas service. Any other provision of sections 302.010 to 302.540 to the contrary notwithstanding, the effective date of the four points remaining on the record upon reinstatement or termination shall be the date of the reinstatement or termination notice.

11. No credit toward reduction of points shall be given during periods of suspension or revocation or any period of driving under a [hardship] **limited** driving privilege granted by a court **or the director of revenue**.

12. Any person or nonresident whose license or privilege to operate a motor vehicle in this state has been suspended or revoked under this or any other law shall, before having the license or privilege to operate a motor vehicle reinstated, pay to the director a reinstatement fee of twenty dollars which shall be in addition to all other fees provided by law.

13. Notwithstanding any other provision of law to the contrary, if after two years from the effective date of any suspension or revocation issued under this chapter, the person or nonresident has not paid the reinstatement fee of twenty dollars, the director shall reinstate such license or privilege to operate a motor vehicle in this state.

14. No person who has had a license to operate a motor vehicle suspended or revoked as a result of an assessment of points for a violation under subdivision (8), (9) or (10) of subsection 1 of section 302.302 shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 302.010, or a program determined to be comparable by the department. Assignment recommendations, based upon the needs assessment as described in subdivision (21) of section 302.010, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court **of the county in which such assignment was given**, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, RSMo, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion

shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

15. The fees for the program authorized in subsection 14 of this section, or a portion thereof to be determined by the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee of sixty dollars. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. The supplemental fees received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.

302.525. SUSPENSION OR REVOCATION, WHEN EFFECTIVE, DURATION — RESTRICTED DRIVING PRIVILEGE — EFFECT OF SUSPENSION OR REVOCATION BY COURT ON CHARGES ARISING OUT OF SAME OCCURRENCE. — 1. The license suspension or revocation shall become effective fifteen days after the subject person has received the notice of suspension or revocation as provided in section 302.520, or is deemed to have received the notice of suspension or revocation by mail as provided in section 302.515. If a request for a hearing is received by or postmarked to the department within that fifteen-day period, the effective date of the suspension or revocation shall be stayed until a final order is issued following the hearing; provided, that any delay in the hearing which is caused or requested by the subject person or counsel representing that person without good cause shown shall not result in a stay of the suspension or revocation during the period of delay.

2. The period of license suspension or revocation under this section shall be as follows:

(1) If the person's driving record shows no prior alcohol related enforcement contacts during the immediately preceding five years, the period of suspension shall be thirty days after the effective date of suspension, followed by a sixty-day period of restricted driving privilege **as defined in section 302.010 and** issued by the director of revenue [for the limited purpose of driving in connection with the person's business, occupation, or employment, and to and from an alcohol education or treatment program]. The restricted driving privilege shall not be issued until he or she has filed proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, and is otherwise eligible. In no case shall restricted driving privileges be issued pursuant to this section or section 302.535 until the person has completed the first thirty days of a suspension under this section;

(2) The period of revocation shall be one year if the person's driving record shows one or more prior alcohol related enforcement contacts during the immediately preceding five years.

3. For purposes of this section, "alcohol related enforcement contacts" shall include any suspension or revocation under sections 302.500 to 302.540, any suspension or revocation entered in this or any other state for a refusal to submit to chemical testing under an implied consent law, and any conviction in this or any other state for a violation which involves driving a vehicle while having an unlawful alcohol concentration.

4. Where a license is suspended or revoked under this section and the person is also convicted on charges arising out of the same occurrence for a violation of section 577.010 or 577.012, RSMo, or for a violation of any county or municipal ordinance prohibiting driving while intoxicated or alcohol related traffic offense, both the suspension or revocation under this section and any other suspension or revocation [under this chapter] **arising from such convictions** shall be imposed, but the period of suspension or revocation under sections 302.500 to 302.540 shall be credited against any other suspension or revocation [imposed under this chapter] **arising from such convictions**, and the total period of suspension or revocation shall not exceed the longer of the two suspension or revocation periods.

302.535. TRIAL DE NOVO, CONDUCT, VENUE, WHAT JUDGE MAY HEAR, WHEN — RESTRICTED DRIVING PRIVILEGE, WHEN, DURATION OF. — 1. Any person aggrieved by a decision of the department may file a petition for trial de novo by the circuit court. The burden of proof shall be on the state to adduce the evidence. Such trial shall be conducted pursuant to the Missouri rules of civil procedure and not as an appeal of an administrative decision pursuant to chapter 536, RSMo. The petition shall be filed in the circuit court of the county where the arrest occurred. The case shall be decided by the judge sitting without a jury. Until January 1, 2002, the presiding judge of the circuit court may assign a traffic judge, pursuant to section 479.500, RSMo 1994, a circuit judge or an associate circuit judge to hear such petition. After January 1, 2002, pursuant to local court rule pursuant to article V, section 15 of the Missouri Constitution, the case may be assigned to a circuit judge or an associate circuit judge, or to a traffic judge pursuant to section 479.500, RSMo.

2. The filing of a petition for trial de novo shall not result in a stay of the suspension or revocation order. [But upon the filing of such petition, a restricted driving privilege for the limited purpose of driving in connection with the petitioner's business, occupation, employment, or formal program of secondary, postsecondary or higher education shall be issued by the department] **A restricted driving privilege as defined in section 302.010 shall be issued in accordance with subsection 2 of section 302.525**, if the person's driving record shows no prior alcohol-related enforcement contact during the immediately preceding five years. Such [limited] **restricted** driving privilege shall terminate on the date of the disposition of the petition for trial de novo.

3. In addition to the [limited] **restricted** driving privilege as permitted in subsection 2 of this section, the department may upon the filing of a petition for trial de novo issue a restricted driving privilege [for the limited purpose of driving in connection with the petitioner's business, occupation, employment, or formal program of secondary, postsecondary or higher education] **as defined in section 302.010**. In determining whether to issue such a restrictive driving privilege, the department shall consider the number and the seriousness of prior convictions and the entire driving record of the driver.

4. Such time of restricted driving privilege pending disposition of trial de novo shall be counted toward any time of restricted driving privilege imposed pursuant to section 302.525. Nothing in this subsection shall be construed to prevent a person from maintaining his restricted driving privilege for an additional sixty days in order to meet the conditions imposed by section 302.540 for reinstating a person's driver's license.

302.540. REINSTATEMENT OF LICENSE — COMPLETION OF SUBSTANCE ABUSE TRAFFIC OFFENDER PROGRAM A CONDITION — INDIVIDUAL ASSESSMENT, JUDICIAL REVIEW — FEES AND COST, DISTRIBUTION OF — TREATMENT DEMONSTRATION PROJECT MAY BE CREATED.

— 1. No person who has had a license to operate a motor vehicle suspended or revoked under the provisions of sections 302.500 to 302.540 shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 302.010, or a program determined to be comparable by the department. Assignment recommendations, based upon the needs assessment as described in subdivision (21) of section 302.010, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court **of the county in which such assignment was given**, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense,

and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, RSMo, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

2. The fees for the program authorized in subsection 1 of this section, or a portion thereof to be determined by the division of alcohol and drug abuse of the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee of sixty dollars. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. The supplemental fees received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.

3. Court-ordered participation in a substance abuse traffic offender program, pursuant to section 577.049, RSMo, shall satisfy the requirements of this section if the court action arose out of the same occurrence that resulted in a person's license being administratively suspended or revoked.

4. The division of alcohol and drug abuse of the department of mental health may create a treatment demonstration project within existing appropriations and shall develop and certify a program to provide education or rehabilitation services for individuals determined by the division to be serious or repeat offenders. The program shall qualify as a substance abuse traffic offender program. As used in this subsection, a "serious or repeat offender" is one who was determined to have a blood alcohol content of fifteen-hundredths of one percent or more by weight while operating a motor vehicle or a prior or persistent offender as defined in section 577.023, RSMo.

577.041. REFUSAL TO SUBMIT TO CHEMICAL TEST — NOTICE, REPORT OF PEACE OFFICER, CONTENTS — REVOCATION OF LICENSE, HEARING — EVIDENCE, ADMISSIBILITY — REINSTATEMENT OF LICENSES — SUBSTANCE ABUSE TRAFFIC OFFENDER PROGRAM — ASSIGNMENT RECOMMENDATIONS, JUDICIAL REVIEW — FEES. — 1. If a person under arrest, or who has been stopped pursuant to subdivision (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to any test allowed pursuant to section 577.020, then none shall be given and evidence of the refusal shall be admissible in a proceeding pursuant to section 565.024 or 565.060, RSMo, or section 577.010 or 577.012. The request of the officer shall include the reasons of the officer for requesting the person to submit to a test and also shall inform the person that evidence of refusal to take the test may be used against such person and that the person's license shall be immediately revoked upon refusal to take the test. If a person when requested to submit to any test allowed pursuant to section 577.020 requests to speak to an attorney, the person shall be granted twenty minutes in which to attempt to contact an attorney. If upon the completion of the twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a refusal. In this event, the officer shall, on behalf of the director of revenue, serve the notice of license revocation personally upon the person and shall take possession of any license to operate a motor vehicle issued by this state which is held by that person. The officer shall issue a temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall also give the person a notice of such person's right to file a petition for review to contest the license revocation.

2. The officer shall make a sworn report to the director of revenue, which shall include the following:

- (1) That the officer has:

(a) Reasonable grounds to believe that the arrested person was driving a motor vehicle while in an intoxicated or drugged condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;

(2) That the person refused to submit to a chemical test;

(3) Whether the officer secured the license to operate a motor vehicle of the person;

(4) Whether the officer issued a fifteen-day temporary permit;

(5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice of the right to file a petition for review, which notices and permit may be combined in one document; and

(6) Any license to operate a motor vehicle which the officer has taken into possession.

3. Upon receipt of the officer's report, the director shall revoke the license of the person refusing to take the test for a period of one year; or if the person is a nonresident, such person's operating permit or privilege shall be revoked for one year; or if the person is a resident without a license or permit to operate a motor vehicle in this state, an order shall be issued denying the person the issuance of a license or permit for a period of one year.

4. If a person's license has been revoked because of the person's refusal to submit to a chemical test, such person may petition for a hearing before a circuit or associate circuit court in the county in which the arrest or stop occurred. The person may request such court to issue an order staying the revocation until such time as the petition for review can be heard. If the court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the director of revenue and shall send a copy of such order to the director. Such order shall serve as proof of the privilege to operate a motor vehicle in this state and the director shall maintain possession of the person's license to operate a motor vehicle until termination of any revocation pursuant to this section. Upon the person's request the clerk of the court shall notify the prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the director of revenue. At the hearing the court shall determine only:

(1) Whether or not the person was arrested or stopped;

(2) Whether or not the officer had:

(a) Reasonable grounds to believe that the person was driving a motor vehicle while in an intoxicated or drugged condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer had reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and

(3) Whether or not the person refused to submit to the test.

5. If the court determines any issue not to be in the affirmative, the court shall order the director to reinstate the license or permit to drive.

6. Requests for review as provided in this section shall go to the head of the docket of the court wherein filed.

7. No person who has had a license to operate a motor vehicle suspended or revoked pursuant to the provisions of this section shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 577.001, or a program determined to be comparable by the department or the court.

Assignment recommendations, based upon the needs assessment as described in subdivision (21) of section 302.010, RSMo, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court **of the county in which such assignment was given**, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, RSMo, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

8. The fees for the substance abuse traffic offender program, or a portion thereof to be determined by the division of alcohol and drug abuse of the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee of sixty dollars. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. The supplemental fees received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.

Approved June 12, 2002

HB 2064 [HB 2064]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes requirements for sheriff's deeds given under the Municipal Land Reutilization Law.

AN ACT to amend chapter 92, RSMo, by adding thereto one new section relating to deeds on real property sold at tax foreclosure sales.

SECTION

- A. Enacting clause.
92.852. Recording fee, sheriff's deed given pursuant to municipal land reutilization law, assessed when — recorded, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 92, RSMo, is amended by adding thereto one new section, to be known as section 92.852, to read as follows:

92.852. RECORDING FEE, SHERIFF'S DEED GIVEN PURSUANT TO MUNICIPAL LAND REUTILIZATION LAW, ASSESSED WHEN — RECORDED, WHEN. — Any sheriff's deed given pursuant to the municipal land reutilization law shall be subject to a recording fee for the costs of recording the deed that shall be assessed and collected from the purchaser of the property at the same time the proceeds from the sale are collected. All such deeds shall be recorded at the office of the recorder of deeds within two months after the sheriff's deed is given.

Approved June 28, 2002

HB 2078 [HB 2078]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Repeals expired sections of statutes.

AN ACT to repeal sections 141.265, 142.027, 313.335, 640.169, 640.170, 640.172, 640.175, 640.177, 640.179, 640.180, 640.182, 640.185, 640.195, 640.200, 640.203, 640.205, 640.207, 640.210, 640.212, 640.215 and 640.218, RSMo 2000, and section 217.440 as enacted by senate committee substitute for senate bill no. 430 of the eighty-ninth general assembly, first regular session, for the purpose of repealing expired provisions of law and sections made obsolete by expired provisions of law.

SECTION

- A. Enacting clause.
 - 141.265. Tax liens, proceedings to enforce, commenced, when — termination date.
 - 142.027. Fuel ethanol and ethanol blends, defined — tax rate — reimbursement to state highways and transportation department fund, amount, how computed.
 - 217.440. Program of restorative justice, requirements — termination date for program.
 - 313.353. Commission may allow pre-October 22, 1998, lottery winners receiving annual payments to elect to receive a single cash payment, expiration date.
 - 640.169. Termination of sections 640.170 to 640.218.
 - 640.170. Definitions.
 - 640.172. Application for loan funds, procedures — payback score, how determined.
 - 640.175. Energy cost savings, computation of.
 - 640.177. Repayment of loans, how — funds not to be derived from additional tax levy — deposit of funds received.
 - 640.179. Energy conservation loan account, established — maintenance of records.
 - 640.180. Local government energy conservation loan fund established, funding — state treasurer to administer — use of funds — fund not to lapse.
 - 640.182. Use of loan proceeds — department may audit — rules and regulations, promulgation of.
 - 640.185. Administration of funds, guidelines — expiration dates.
 - 640.195. Definitions.
 - 640.200. Application and technical assistance report, content and form — loans, how granted — limitation on loan.
 - 640.203. Repayment of loan in semiannual payments, interest rate — renegotiate repayment, when — deposit of payments in fund.
 - 640.205. Energy conservation loan account to be established by business with loan — accounting and records requirements.
 - 640.207. Industrial/commercial energy conservation loan fund established, purpose — moneys to be deposited in fund — use and disbursement — transfer to general revenue prohibited.
 - 640.210. Remittance for improper use of loan, procedure — attorney general's duties — audit of loan, when.
 - 640.212. Rules authorized.
 - 640.215. Money from sources other than state, how handled — report by department of natural resources, when, content.
 - 640.218. Revenue bonds issued by authority, purpose.
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Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 141.265, 142.027, 313.353, 640.169, 640.170, 640.172, 640.175, 640.177, 640.179, 640.180, 640.182, 640.185, 640.195, 640.200, 640.203, 640.205, 640.207, 640.210, 640.212, 640.215 and 640.218, RSMo 2000, and section 217.440 as enacted by senate committee substitute for senate bill no. 430 of the eighty-ninth general assembly, first regular session, are repealed as follows:

[141.265. TAX LIENS, PROCEEDINGS TO ENFORCE, COMMENCED, WHEN — TERMINATION DATE. — 1. In order to provide for the orderly implementation of, and notwithstanding other provisions of sections 141.210 to 141.810, the periods of delinquency upon which proceedings to foreclose the tax lien as otherwise authorized by sections 141.210 to 141.810 shall be as follows:

(1) Proceedings commenced in 1983 shall be for enforcement of the tax lien on tax bills billed 1978 and 1979 and falling delinquent in the calendar years 1979 and 1980;

(2) Proceedings commenced in 1984 shall be for enforcement of the tax lien of tax bills billed 1980 and 1981 and falling delinquent in the calendar years 1981 and 1982;

(3) Proceedings commenced after December 31, 1984, on bills billed in 1982 and thereafter shall be for the enforcement of the tax lien on tax bills as otherwise provided by sections 141.210 to 141.810.

2. Subsection 1 of this section shall terminate on December 31, 1984, but the termination shall not impair or invalidate any proceeding brought pursuant to sections 141.210 to 141.810, pending on that date.]

EXPLANATION: Subsection 1 of this section expired December 31, 1984. The remainder of the section is made obsolete.

[142.027. FUEL ETHANOL AND ETHANOL BLENDS, DEFINED — TAX RATE — REIMBURSEMENT TO STATE HIGHWAYS AND TRANSPORTATION DEPARTMENT FUND, AMOUNT, HOW COMPUTED. — 1. As used in this section, the following terms mean:

(1) "Fuel ethanol", one hundred ninety-eight proof ethanol denatured in conformity with United States Bureau of Alcohol, Tobacco and Firearms' regulations and fermented and distilled in a facility whose principal (over fifty percent) feed stock is cereal grain or cereal grain by-products;

(2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten percent fuel ethanol in which the gasoline portion of the blend or the finished blend meets the American Society for Testing and Materials - specification number D-439.

2. Notwithstanding any other law to the contrary, the rate of the license tax imposed by section 142.020 on qualified fuel ethanol blends used in propelling motor vehicles upon the public highways of Missouri is two cents per gallon less than the rate of tax stated in section 142.025, until July 1, 1996.

3. The state highways and transportation department fund shall be reimbursed from the state general revenue fund in the amount not to exceed two cents per gallon for each gallon of ethanol blend motor fuel taxed at a rate of taxation which is a maximum of two cents below the tax imposed on all other motor fuel sold in this state for propelling motor vehicles on the public highways of this state. The department of transportation, by December first of each year, shall determine from the reports filed by distributors with the department of revenue the number of gallons of ethanol blended motor fuel sold in this state for propelling motor vehicles upon the highways of this state during the preceding fiscal year ending on June thirtieth of that year. The department of transportation shall certify the number of gallons so derived to the respective chairpersons of the senate appropriations committee and the house budget committee by the last day of December. The figures and exemption credits so certified shall be the amount of

reimbursement to be appropriated annually to the state highways and transportation department fund from the state general revenue fund.]

EXPLANATION: This section expired June 30, 1996.

[217.440. PROGRAM OF RESTORATIVE JUSTICE, REQUIREMENTS— TERMINATION DATE FOR PROGRAM. — The director may establish a program of restorative justice within the department's correctional centers and require that offenders offer acts and expressions of sincere remorse for the offense committed and its impact on the victim(s) and the community. Such program requirements may include, but are not limited to, community service work while incarcerated and participation in victim-oriented programs, as well as other restorative activities to be determined by the department. The provisions of this section shall terminate December 31, 2000.]

EXPLANATION: Two versions of this section were enacted in 1997. This section expired December 31, 2000. The second version did not contain an expiration date and still exists.

[313.353. COMMISSION MAY ALLOW PRE-OCTOBER 22, 1998, LOTTERY WINNERS RECEIVING ANNUAL PAYMENTS TO ELECT TO RECEIVE A SINGLE CASH PAYMENT, EXPIRATION DATE. — Notwithstanding section 313.35 to the contrary, the commission as defined in section 313.205 may allow any state lottery prize winner who won the lottery, as defined in this chapter, before October 22, 1998, and who is currently receiving annual payments from annuities or securities, to elect to receive a single cash payment in lieu of the remaining annual payments. This section shall expire on December 31, 2000.]

EXPLANATION: This section expired December 31, 2000.

[640.169. TERMINATION OF SECTIONS 640.170 TO 640.218. — Sections 640.170 to 640.218 shall terminate July 1, 1996. Moneys in the local government energy conservation loan fund and the industrial commercial energy conservation loan fund shall be transferred to the energy set-aside energy fund and the local government energy conservation loan fund and the industrial commercial energy conservation loan fund shall be abolished.]

EXPLANATION: This section becomes obsolete when sections 640.170 to 640.218 are repealed.

[640.170. DEFINITIONS. — As used in sections 640.170 to 640.185, the following terms mean:

(1) "Application cycle", the period of time each year, as determined by the department, that the department shall accept and receive applications from local governments seeking loans under the provisions of sections 640.170 to 640.185;

(2) "Building", any structure owned and operated by a local government that includes a heating or cooling system, or both;

(3) "Department", the department of natural resources;

(4) "Energy conservation loan account", an account to be established on the books of a local government for purposes of tracking information related to the receipt or expenditure of loan funds, and to be used to receive and remit energy cost savings for purposes of making semiannual payments to retire the loan;

(5) "Energy conservation project" or "project", the design, acquisition and installation of one or more energy conserving devices, measures or modifications to a building or facility to reduce energy consumption or to allow for the use of alternative or energy resources;

(6) "Energy cost savings" or "savings", the value, in terms of dollars, that has or shall accrue from energy savings due to implementation of an energy conservation project;

(7) "Estimated simple payback", the estimated cost of a project divided by the estimated energy cost savings, usually expressed in terms of months or years;

(8) "Facility", any major energy using system owned and operated by a local government, whether or not housed in a building;

(9) "Fund", the local government energy conservation loan fund established in section 640.180;

(10) "Loan agreement", a document signed and agreed to by the governing body of the local government and the department that details all terms and requirements under which the loan was issued, and describes the terms under which the loan repayment shall be made;

(11) "Local government", any city, county or village, or any subdistrict of a zoological park and museum district as such subdistricts are defined in section 184.352, RSMo;

(12) "Payback score", a numeric value derived from the review of an application, calculated as prescribed by the department, which is used solely for purposes of ranking applications for the selection of loan recipients from within the balance of loan funds available;

(13) "Project cost", all costs determined by the department to be directly related to the implementation of an energy conservation project;

(14) "Repayment period", unless otherwise negotiated as required under section 640.177, the period in years required to repay a loan as determined by the projects' estimated simple payback and rounded to the next year in cases where the estimated simple payback is in a fraction of a year;

(15) "Technical assistance report", a specialized engineering report that identifies and specifies the quantity of energy savings and related energy cost savings that are likely to result from the implementation of one or more energy conservation measures;

(16) "Unobligated balance", that amount in the fund that has not been dedicated to any local government at the end of each state fiscal year.]

EXPLANATION: This section expired July 1, 1996.

[640.172. APPLICATION FOR LOAN FUNDS, PROCEDURES — PAYBACK SCORE, HOW DETERMINED. — 1. At the direction of its governing body, a local government may submit an application for loan funds to the department of natural resources for the purpose of financing all or a portion of the costs incurred in implementing an energy conservation project in a local government owned and operated building or facility. The application shall be accompanied by a technical assistance report that shall be in such form and contain such information as prescribed by the department. This section shall not preclude any local government from joining in a cooperative project with any other local governments or with any state or federal agency or entity in an energy conservation project, providing all other requirements of sections 640.170 to 640.185 are met.

2. All applications shall be assigned a payback score derived from the application review performed by the department. Applications shall be selected for loans beginning with the lowest payback score and continuing in ascending numeric order to the highest payback score until all available loan funds have been obligated within any given application cycle. In no case shall a loan be made to finance an energy project with a payback score of less than six months or more than eight years. Applications may be approved for loans only in those instances where the local government has furnished the department information satisfactory to assure that the project cost will be recovered through energy cost savings during the repayment period of the loan. In no case shall a loan be made to a local government unless a majority of the members of the governing body vote to approve the loan agreement.]

EXPLANATION: This section expired July 1, 1996.

[640.175. ENERGY COST SAVINGS, COMPUTATION OF. — Annually, at the conclusion of each state fiscal year, each local government which has received a loan pursuant to the provisions of sections 640.170 to 640.185 shall compute the actual energy cost savings resulting from the implementation of the energy conservation project financed by the loan. Energy cost savings shall be calculated in the manner prescribed by the department and reported to the department during the period of the loan.]

EXPLANATION: This section expired July 1, 1996.

[640.177. REPAYMENT OF LOANS, HOW — FUNDS NOT TO BE DERIVED FROM ADDITIONAL TAX LEVY — DEPOSIT OF FUNDS RECEIVED. — 1. Each local government to which a loan has been made under sections 640.170 to 640.185 shall repay such loan, with interest, in semiannual payments. The rate of interest shall be the rate required by the department of natural resources. The number, amounts and timing of the semiannual payments shall be as determined by the department.

2. Any local government which receives a loan through the provisions of sections 640.170 to 640.185 shall annually budget an amount which is at least sufficient to make the semiannual payments required under this section.

3. The local government shall not raise the funds needed to make the semiannual loan payment by the levy of additional taxes. The semiannual loan payments shall be derived solely from energy cost savings resulting from the implementation of the project. In the event that energy cost savings resulting from the project fail to equal or exceed the amount of the semiannual payment, the local government and the department shall renegotiate the repayment period in such a manner as to assure that the semiannual payment amount does not exceed the actual energy cost savings resulting from the project.

4. If a local government fails to remit a semiannual payment to the department in accordance with this section within sixty days of the due date of such payment, the department of natural resources shall notify the director of the department of revenue to deduct such payment amount from the next regular apportionment of local sales tax distributions to that jurisdiction. Such amount shall then immediately be deposited in the fund.

5. All local governments having received loans pursuant to sections 640.170 to 640.185 shall remit the semiannual payments required by subsection 1 of this section to the department. The department shall immediately deposit such payments in the local government energy conservation loan fund.]

EXPLANATION: This section expired July 1, 1996.

[640.179. ENERGY CONSERVATION LOAN ACCOUNT, ESTABLISHED — MAINTENANCE OF RECORDS. — 1. A local government receiving a loan under the provisions of sections 640.170 to 640.185 shall establish on its books an energy conservation loan account which it shall maintain until such time as the loan obligation has been repaid. Information sufficient to indicate the receipt and expenditure of all funds authorized and allowed under the terms of the loan shall be entered in this account.

2. The local government shall maintain all internal records directly related to the loan and the project in such a way as to provide for proper auditing of the project.]

EXPLANATION: This section expired July 1, 1996.

[640.180. LOCAL GOVERNMENT ENERGY CONSERVATION LOAN FUND ESTABLISHED, FUNDING — STATE TREASURER TO ADMINISTER — USE OF FUNDS — FUND NOT TO LAPSE. — 1. The state treasurer shall establish, maintain, and administer a special trust fund to be administered by the department and to be known as the "Local Government Energy Conservation

Loan Fund", which is hereby established. When appropriated by the general assembly, moneys from the fund shall be used to provide local governments with loans for the purpose of implementing energy conservation projects under the provisions of sections 640.170 to 640.185.

2. It is the intent of sections 640.170 to 640.185 to use oil overcharge moneys as the primary funding source for its implementation. Upon appropriation by the general assembly, that amount shall be deposited into the fund from the petroleum violation escrow fund. In addition, the department is authorized to receive and credit to the fund any federal funds, gifts, bequests, donations or any other moneys so designated, including general revenue appropriations. All money received pursuant to section 640.177, and all interest earned on and income generated from such moneys shall immediately be paid to and deposited in the local government energy conservation loan fund.

3. The full balance, or any portion thereof, of the fund shall be available to be issued and reissued for loans as authorized by sections 640.170 to 640.185. Following appropriation by the general assembly, the department may expend interest earned on the local government energy conservation loan fund, for the administration of the local government loan program contained in sections 640.170 to 640.185.

4. The commissioner of administration shall disburse such moneys at such times from the fund as are authorized by the department pursuant to section 640.172.

5. Except as otherwise provided in sections 640.170 to 640.185, the provisions of section 33.080, RSMo, requiring the transfer of unexpended funds to the general revenue fund of the state shall not apply to funds in the local government energy conservation loan fund.]

EXPLANATION: This section expired July 1, 1996.

[640.182. USE OF LOAN PROCEEDS — DEPARTMENT MAY AUDIT — RULES AND REGULATIONS, PROMULGATION OF. — 1. A loan made pursuant to sections 640.170 to 640.185 shall be used only for the purposes specified in an approved application. In the event the department determines that a loan has been expended for purposes other than those specified in an approved application, it shall immediately request the return of the full amount of the loan. If a local government fails to remit repayment to the department within sixty days of notification, collection shall be made through the provisions outlined in subsection 4 of section 640.177.

2. The department may, at its discretion, audit the expenditure of any loan made pursuant to sections 640.170 to 640.185 or the computation of any payment made pursuant to section 640.177.

3. The department shall promulgate such rules and regulations as are necessary for the administration of sections 640.170 to 640.185. No rule or portion of a rule promulgated under the authority of sections 640.170 to 640.185 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

EXPLANATION: This section expired July 1, 1996.

[640.185. ADMINISTRATION OF FUNDS, GUIDELINES — EXPIRATION DATES. — 1. All moneys from sources other than state appropriations which are specified to be used for purposes identified under the provisions of sections 640.170 to 640.185 shall be handled in the same manner as moneys received through state appropriations unless otherwise required in agreements or regulations with the sources from which such moneys are obtained. The director of the department of natural resources shall certify that the use of all such moneys and any required agreements or regulations are consistent with sections 640.170 to 640.185, and all other state and federal laws governing such moneys, agreements and regulations.

2. Loan-making authority under sections 640.170 to 640.185 shall cease as of January 1, 1998.

3. All moneys remaining in the fund plus accrued interest and the proceeds from repayments of outstanding loans shall be disbursed in a manner consistent with the rules, regulations, statutes or federal court orders governing the original source of the moneys.

4. All authorizations under sections 640.170 to 640.185 shall expire on January 1, 2006.]

EXPLANATION: This section expired July 1, 1996.

[640.195. DEFINITIONS. — 1. It is the intention of the general assembly that sections 640.195 to 640.218 are to be implemented so that loan funds are provided to small businesses in order for such small businesses to implement energy conservation projects and reduce their overall energy costs and consumption.

2. As used in sections 640.195 to 640.218, the following terms mean:

(1) "Applications cycle", the period of time each year, as determined by the department, that the department shall accept and receive applications seeking loans under the provisions of sections 640.195 to 640.218;

(2) "Authority", the environmental improvement and energy resources authority;

(3) "Building", any occupied structure that is owned and operated by an applicant business and which includes a heating or cooling system, or both;

(4) "Department", the department of natural resources;

(5) "Energy conservation project" or "project", the design, acquisition and installation of one or more energy conserving devices, measures or modifications to a building or facility to reduce energy consumption, to increase energy efficiency or to allow for the use of alternative energy resources;

(6) "Energy cost savings" or "savings", the value in terms of dollars that has or shall accrue from energy savings due to implementation of an energy conservation project;

(7) "Estimated simple payback", the estimated cost of a project divided by the estimated energy cost savings;

(8) "Facility", any major energy-using system owned and operated by an applicant business, whether or not housed in a building;

(9) "Fund", the industrial/commercial energy conservation loan fund established in section 640.207;

(10) "Loan agreement", a document signed and agreed to by authorized officials or principals in the applicant business and the department that details all terms and requirements under which the loan was issued and describes the terms under which the loan repayment shall be made;

(11) "Payback score", a numeric value derived from the review of an application, calculated as prescribed by the department, which is used solely for purposes of ranking applications for the selection of loan recipients within the balance of loan funds available;

(12) "Project cost", all costs determined by the department to be directly related to the implementation of an energy conservation project;

(13) "Repayment period", unless otherwise renegotiated as required under section 640.203, the period in years required to repay a loan as determined by the project's estimated simple payback and rounded to the next year in cases where the estimated simple payback is in a fraction of a year;

(14) "Technical assistance report", a specialized engineering report that identifies and specifies the quantity of energy savings and related energy cost savings that are likely to result from the implementation of one or more energy conservation measures;

(15) "Unobligated balance", that amount in the fund that has not been dedicated to energy conservation projects at the end of each state fiscal year.]

EXPLANATION: This section expired July 1, 1996.

[640.200. APPLICATION AND TECHNICAL ASSISTANCE REPORT, CONTENT AND FORM — LOANS, HOW GRANTED — LIMITATION ON LOAN. — 1. An application for loan funds may be submitted to the department for the purpose of financing all or a portion of the costs incurred in implementing an energy conservation project in a facility owned and operated by the applicant. The application shall be accompanied by a technical assistance report. If the applicant pays more than ten percent of the loan for the technical assistance report, the loan shall be denied. The application and the technical assistance report shall be in such form and contain such information as prescribed by the department.

2. All applications shall be assigned a payback score derived from the application review performed by the department. Applications shall be selected for loans beginning with the lowest payback score until all available loan funds have been obligated within any given application cycle. In no case shall a loan be made to finance an energy project with a payback score of less than six months or more than five years. Applications may be approved for loans only in those instances where the applicant has furnished the department information satisfactory to assure that the project cost will be recovered through energy cost savings during the repayment period of the loan.

3. All applications for loans or permits shall be approved or disapproved within ninety days or stand approved as submitted.

4. The department shall not issue a loan for more than one hundred fifty thousand dollars for any one energy conservation project.]

EXPLANATION: This section expired July 1, 1996.

[640.203. REPAYMENT OF LOAN IN SEMIANNUAL PAYMENTS, INTEREST RATE — RENEGOTIATE REPAYMENT, WHEN — DEPOSIT OF PAYMENTS IN FUND. — 1. Each applicant to which a loan has been made under sections 640.195 to 640.218 shall repay such loan with interest in semiannual payments. The rate of interest shall be the rate required by the funding source. The amount and timing of the semiannual payments shall be as determined by the department.

2. In the event that energy cost savings resulting from the project fail to equal or exceed the amount of the semiannual payment, the applicant and the department shall renegotiate the repayment period in such a manner as to assure that the semiannual payment amount does not exceed the actual energy cost savings resulting from the project.

3. All businesses which have received loans pursuant to sections 640.195 to 640.218 shall remit the semiannual payments required by subsection 1 of this section to the department. The department shall immediately deposit such payments in the industrial/commercial energy conservation loan fund.]

EXPLANATION: This section expired July 1, 1996.

[640.205. ENERGY CONSERVATION LOAN ACCOUNT TO BE ESTABLISHED BY BUSINESS WITH LOAN — ACCOUNTING AND RECORDS REQUIREMENTS. — 1. A business receiving a loan under the provisions of sections 640.195 to 640.218 shall establish on its books an energy conservation loan account which the business shall maintain until such time as the loan obligation has been repaid. Information sufficient to indicate the receipt and expenditure of all funds authorized and allowed under the terms of the loan shall be entered in this account.

2. The business shall maintain all internal records directly related to the loan and the project in such a way as to provide for proper auditing of the project.]

EXPLANATION: This section expired July 1, 1996.

[640.207. INDUSTRIAL/COMMERCIAL ENERGY CONSERVATION LOAN FUND ESTABLISHED, PURPOSE — MONEYS TO BE DEPOSITED IN FUND — USE AND DISBURSEMENT — TRANSFER TO GENERAL REVENUE PROHIBITED.] — 1. The state treasurer shall establish and maintain a special trust fund to be administered by the department and to be known as the "Industrial/Commercial Energy Conservation Loan Fund", from which Missouri industrial and commercial businesses may seek and obtain loans for the purpose of implementing energy conservation projects under the provisions of sections 640.195 to 640.218.

2. All moneys duly authorized and appropriated by the general assembly, all moneys received from federal funds, gifts, bequests, donations or any other moneys so designated, all moneys received pursuant to section 640.203, and all interest earned on and income generated from moneys in the fund shall immediately be paid to and deposited in the industrial/commercial energy conservation loan fund.

3. Moneys in the fund including moneys from repayments of loans by business recipients, as specified in section 640.203, shall be available to be reissued for loans as authorized in sections 640.195 to 640.218. After appropriation by the general assembly, the department may expend the interest earned on the industrial/commercial energy conservation loan fund for the administration of sections 640.195 to 640.218.

4. The commissioner of administration shall disburse such moneys from the fund at such times as are authorized by the department.

5. Except as otherwise provided in sections 640.195 to 640.218, the provisions of section 33.080, RSMo, requiring the transfer of unexpended funds to the ordinary revenue funds of the state shall not apply to funds in the industrial/commercial energy conservation loan fund.]

EXPLANATION: This section expired July 1, 1996.

[640.210. REMITTANCE FOR IMPROPER USE OF LOAN, PROCEDURE — ATTORNEY GENERAL'S DUTIES — AUDIT OF LOAN, WHEN.] — 1. A loan made pursuant to sections 640.195 to 640.218 shall be used only for the purposes specified in an approved application. In the event the department determines that a loan has been expended for purposes other than those specified in an approved application, it shall immediately request the return of the full amount of the loan. If an applicant fails to remit repayment to the department within sixty days of notification, the director of the department shall request the attorney general to file suit in a court of competent jurisdiction to recover repayment plus interest accrued from the date of the department's initial request for repayment.

2. The department may, at its discretion, audit the expenditure of any loan made pursuant to sections 640.195 to 640.218 or the computation of any payment made pursuant to section 640.203.]

EXPLANATION: This section expired July 1, 1996.

[640.212. RULES AUTHORIZED.] — Under the provisions of sections 640.195 to 640.218, the department shall establish such procedures, policies and qualifications as may be necessary for the administration of sections 640.195 to 640.218.]

EXPLANATION: This section expired July 1, 1996.

[640.215. MONEY FROM SOURCES OTHER THAN STATE, HOW HANDLED — REPORT BY DEPARTMENT OF NATURAL RESOURCES, WHEN, CONTENT.] — 1. All moneys from sources other than state appropriations which are specified to be used for purposes identified under the provisions of sections 640.195 to 640.218 shall be handled in the same manner as moneys received through state appropriations unless otherwise required in agreements or regulations with the sources from which such moneys are obtained. The department director shall certify that the

use of all such moneys and any required agreements or regulations are consistent with the intent of sections 640.195 to 640.218 and all other state and federal laws governing such moneys, agreements and regulations.

2. The division of energy of the department of natural resources shall annually report to the appropriate standing committees of jurisdiction within the general assembly regarding the effectiveness of the industrial/commercial energy conservation loan program, the total number of participants and dollars committed, energy savings realized, and projected future participation.]

EXPLANATION: This section expired July 1, 1996.

[640.218. REVENUE BONDS ISSUED BY AUTHORITY, PURPOSE. — 1. The department may act jointly with the authority to make loans to Missouri industrial and commercial businesses out of the proceeds of revenue bonds issued by the authority, which loans shall be for energy conservation and improvements, energy efficiency and alternative energy resources.

2. Revenue bonds issued by the authority, the proceeds of which are to be lent pursuant to this section, shall be issued and administered in accordance with the terms and conditions established in sections 260.005 to 260.125, RSMo, after approval by the general assembly.]

EXPLANATION: This section expired July 1, 1996.

Approved July 3, 2002

HB 2080 [SCS HB 2080]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows certain county commissions to elect to give their prosecutors retirement benefits equal to prosecutors in first-class counties.

AN ACT to repeal sections 56.363 and 56.807, RSMo, and to enact in lieu thereof two new sections relating to county prosecutors.

SECTION

- A. Enacting clause.
- 56.363. Full-time prosecutor, ballot — effective date — continuing education requirement, duty to provide to peace officers — may qualify for retirement benefits, when.
- 56.807. Local payments, amounts — prosecuting attorneys and circuit attorneys' retirement system fund created — donations may be accepted.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 56.363 and 56.807, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 56.363 and 56.807, to read as follows:

56.363. FULL-TIME PROSECUTOR, BALLOT — EFFECTIVE DATE — CONTINUING EDUCATION REQUIREMENT, DUTY TO PROVIDE TO PEACE OFFICERS — MAY QUALIFY FOR RETIREMENT BENEFITS, WHEN. — 1. The county commission of any county may on its own motion and shall upon the petition of ten percent of the total number of people who voted in the previous general election in the county submit to the voters at a general or special election the proposition of making the county prosecutor a full-time position. The commission shall cause

notice of the election to be published in a newspaper published within the county, or if no newspaper is published within the county, in a newspaper published in an adjoining county, for three weeks consecutively, the last insertion of which shall be at least ten days and not more than thirty days before the day of the election, and by posting printed notices thereof at three of the most public places in each township in the county. The proposition shall be put before the voters substantially in the following form:

Shall the office of prosecuting attorney be made a full-time position in County?

☐ Yes

☐ No

If a majority of the voters voting on the proposition vote in favor of making the county prosecutor a full-time position, it shall become effective upon the date that the prosecutor who is elected at the next election subsequent to the passage of such proposal is sworn into office.

2. The provisions of subsection 1 of this section notwithstanding, in any county where the proposition of making the county prosecutor a full-time position was submitted to the voters at a general election in 1998 and where a majority of the voters voting on the proposition voted in favor of making the county prosecutor a full-time position, the proposition shall become effective on May 1, 1999. Any prosecuting attorney whose position becomes full time on May 1, 1999, under the provisions of this subsection shall have the additional duty of providing not less than three hours of continuing education to peace officers in the county served by the prosecuting attorney in each year of the term beginning January 1, 1999.

3. In counties that, prior to August 28, 2001, have elected pursuant to this section to make the position of prosecuting attorney a full-time position, the county commission may at any time elect to have that position also qualify for the retirement benefit available for a full-time prosecutor of a county of the first classification. Such election shall be made by a majority vote of the county commission and once made shall be irrevocable. When such an election is made, the results shall be transmitted to the Missouri prosecuting attorneys and circuit attorneys' retirement system fund, and the election shall be effective on the first day of January following such election. Such election shall also obligate the county to pay into the Missouri prosecuting attorneys and circuit attorneys' system retirement fund the same retirement contributions for full-time prosecutors as are paid by counties of the first classification.

56.807. LOCAL PAYMENTS, AMOUNTS — PROSECUTING ATTORNEYS AND CIRCUIT ATTORNEYS' RETIREMENT SYSTEM FUND CREATED — DONATIONS MAY BE ACCEPTED. — 1. The funds for prosecuting attorneys and circuit attorneys provided for in subsection 2 of this section shall be paid from county or city funds.

2. Beginning thirty days after the establishment of this system and monthly thereafter, each county treasurer shall pay to the system the following amounts to be drawn from the general revenues of the county:

(1) For counties of the third and fourth classification except as provided in subdivision (3) of this subsection, three hundred seventy-five dollars;

(2) For counties of the second classification, five hundred forty-one dollars and sixty-seven cents;

(3) For counties of the first classification, counties which pursuant to section 56.363 elect to make the position of prosecuting attorney a full-time position after August 28, 2001, **or whose county commission has elected a full-time retirement benefit pursuant to subsection 3 of section 56.363**, and the city of St. Louis, one thousand two hundred ninety-one dollars and sixty-seven cents.

3. The county treasurer shall at least monthly transmit the sums specified in subsection 2 of this section to the Missouri office of prosecution services for deposit to the credit of the "Missouri Prosecuting Attorneys and Circuit Attorneys' Retirement System Fund", which is hereby created. All moneys held by the state treasurer on behalf of the system shall be paid to the system within ninety days after August 28, 1993. Moneys in the Missouri prosecuting

attorneys and circuit attorneys' retirement system fund shall be used only for the purposes provided in sections 56.800 to 56.840 and for no other purpose.

4. The board may accept gifts, donations, grants and bequests from private or public sources to the Missouri prosecuting attorneys and circuit attorneys' retirement system fund.

5. No state moneys shall be used to fund section 56.700 and sections 56.800 to 56.840 unless provided for by law.

Approved July 10, 2002

HB 2117 [HB 2117]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the provisions regarding access to information technology by state departments and agencies.

AN ACT to repeal section 191.863, RSMo, and to enact in lieu thereof one new section relating to the assistive technology advisory council.

SECTION

A. Enacting clause.

191.863. Council to assure compliance with federal accessibility laws — duties of council to assure accessibility.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 191.863, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 191.863, to read as follows:

191.863. COUNCIL TO ASSURE COMPLIANCE WITH FEDERAL ACCESSIBILITY LAWS — DUTIES OF COUNCIL TO ASSURE ACCESSIBILITY. — 1. The council shall work in conjunction with the office of information technology to assure state compliance with the provisions of Section 508 of the Workforce Investment Act of 1998 regarding accessibility of information technology for individuals with disabilities.

2. When developing, procuring, maintaining or using information technology, **or when administering contracts or grants that include the procurement, development, or upgrading of information technology**, each state department or agency shall ensure, unless an undue burden would be imposed on the department or agency, that the information technology allows employees, program participants and members of the general public access to and use of information and data that is comparable to the access by individuals without disabilities.

3. To assure accessibility, the council and the office of information technology shall:

(1) Adopt accessibility standards to be used by each state department or agency in the procurement of information technology, and in the development and implementation of custom-designed information technology systems, Web sites and other emerging information technology systems;

(2) Establish and implement a review procedure to be used to evaluate the accessibility of custom-designed information technology systems proposed by a state department or agency prior to expenditure of state funds;

(3) Review and evaluate accessibility of information technology commonly purchased by state departments and agencies, and provide accessibility reports on such products to those responsible for purchasing decisions;

(4) Provide training and technical assistance for state departments and agencies to assure procurement of information technology that meets adopted accessibility standards;

(5) Involve individuals with disabilities in accessibility reviews of information technology and in the delivery of training and technical assistance;

(6) Establish complaint procedures, consistent with Section 508 of the Workforce Development Act of 1998 to be used by an individual with a disability who alleges that a state department or agency fails to comply with the provisions of this section.

Approved July 2, 2002

HB 2120 [CCS SCS HB 2120]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Specifies how to ascertain the value of certain stolen property.

AN ACT to repeal section 570.020, RSMo, and to enact in lieu thereof one new section relating to the method of ascertaining the value of property.

SECTION

A. Enacting clause.

570.020. Determination of value.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 570.020, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 570.020, to read as follows:

570.020. DETERMINATION OF VALUE. — For the purposes of this chapter, the value of property shall be ascertained as follows:

(1) Except as otherwise specified in this section, "value" means the market value of the property at the time and place of the crime, or if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the crime. **If the victim is a merchant, as defined in section 400.2-104, RSMo, and the property is a type that the merchant sells in the ordinary course of business, then the property shall be valued at the price that such merchant would normally sell such property;**

(2) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value such as some public and corporate bonds and securities, shall be evaluated as follows:

(a) The value of an instrument constituting evidence of debt, such as a check, draft or promissory note, shall be deemed the amount due or collectible thereon or thereby, such figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(b) The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be deemed the greatest amount of economic

loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument;

(3) When the value of property cannot be satisfactorily ascertained pursuant to the standards set forth in subdivisions (1) and (2) of this section, its value shall be deemed to be an amount less than one hundred fifty dollars.

Approved July 10, 2002

HB 2130 [HB 2130]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Clarifies the deadline for filing tangible personal property listings.

AN ACT to repeal section 137.495, RSMo, and to enact in lieu thereof one new section relating to tangible personal property listings.

SECTION

A. Enacting clause.

137.495. Property owners to file return listing tangible personal property, when — filing on next business day when filing date is on a Saturday or Sunday.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 137.495, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.495, to read as follows:

137.495. PROPERTY OWNERS TO FILE RETURN LISTING TANGIBLE PERSONAL PROPERTY, WHEN — FILING ON NEXT BUSINESS DAY WHEN FILING DATE IS ON A SATURDAY OR SUNDAY. — Every person, corporation, partnership or association, subject to taxation [under] pursuant to the laws of this state and owning or controlling tangible personal property taxable by the cities shall file with the assessor of the cities a return listing all such tangible personal property so owned or controlled on January first of each year and estimating the true value thereof in money. The return shall be filed between the first day of January and the first day of April of each year, shall be signed by the taxpayer, and shall be certified by the taxpayer as being a true and complete list and statement of all the tangible personal property and the estimated value thereof. **If the first day of April is a Saturday or Sunday, the last day for filing shall be the next business day.**

Approved June 28, 2002

HB 2137 [SCS HB 2137]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the compensation scale for county treasurers.

AN ACT to repeal section 54.261, RSMo, and to enact in lieu thereof one new section relating to compensation for county treasurers.

SECTION

A. Enacting clause.

54.261. Compensation — training program, attendance required, when, expenses, compensation (second, third and fourth class counties and Clay County).

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 54.261, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 54.261, to read as follows:

54.261. COMPENSATION — TRAINING PROGRAM, ATTENDANCE REQUIRED, WHEN, EXPENSES, COMPENSATION (SECOND, THIRD AND FOURTH CLASS COUNTIES AND CLAY COUNTY). — 1. The county treasurer in counties of the first classification, not having a charter form of government and containing a portion of a city with a population of three hundred thousand or more, and in counties of the second, third and fourth classifications of this state, shall receive as compensation for services performed by the treasurer an annual salary based upon the assessed valuation of the county. The provisions of this section shall not permit or require a reduction, **nor shall require an increase**, in the amount of compensation being paid for the office of treasurer on January 1, [1997] **2002**.

2. The amount of salary based upon assessed valuation shall be computed according to the following schedule:

Assessed Valuation	Salary
\$ 18,000,000 to 40,999,999	\$21,460
41,000,000 to 53,999,999	22,200
54,000,000 to 65,999,999	23,680
66,000,000 to 85,999,999	25,160
86,000,000 to 99,999,999	26,640
100,000,000 to 130,999,999	28,120
131,000,000 to 159,999,999	29,600
160,000,000 to 189,999,999	30,340
190,000,000 to 249,999,999	30,710
250,000,000 to 299,999,999	31,820
300,000,000 or more	33,300

3. In lieu of the salary schedule listed in subsection 2 of this section, the salary commission may authorize a salary schedule that exceeds the schedule in subsection 2 of this section, but such schedule shall not exceed the following:

Assessed Valuation	Salary
\$ 18,000,000 to 40,999,999	\$29,000
41,000,000 to 53,999,999	30,000
54,000,000 to 65,999,999	32,000
66,000,000 to 85,999,999	34,000
86,000,000 to 99,999,999	36,000
100,000,000 to 130,999,999	38,000
131,000,000 to 159,999,999	40,000
160,000,000 to 189,999,999	41,000
190,000,000 to 249,999,999	41,500
250,000,000 to 299,999,999	43,000
300,000,000 or more	45,000

[3.] 4. Two thousand dollars of the salary authorized in this section shall be payable to the treasurer only if the treasurer has completed at least twenty hours of classroom instruction each

calendar year relating to the operations of the treasurer's office when approved by a professional association of the county treasurers or county collectors of Missouri unless exempted from the training by the professional association. The professional association approving the program shall provide a certificate of completion to each treasurer who completes the training program and shall send a list of certified treasurers to the county commission of each county. Expenses incurred for attending the training session may be reimbursed to the county treasurer in the same manner as other expenses as may be appropriated for that purpose.

[4.] **5.** The county treasurer in any county, other than a county of the first classification having a charter form of government or a county of the first classification not having a charter form of government and not containing any part of a city with a population of three hundred thousand or more, shall not, except upon two-thirds vote of all the members of the commission, receive an annual compensation in an amount less than the total compensation being received for the office of county treasurer in the particular county for services rendered or performed on the date the salary commission votes.

[5.] **6.** In the event of a vacancy in the office of treasurer in any county except a county of the first classification with a charter form of government, when there is no deputy treasurer, the county commission shall appoint a qualified acting treasurer until such time as the vacancy is filled by the governor pursuant to section 105.030, RSMo.

Approved June 21, 2002

SB 639 [SB 639]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies production requirements for sellers of jams and jellies.

AN ACT to amend chapter 261, RSMo, by adding thereto one new section relating to processing requirements for jams and jellies.

SECTION

A. Enacting clause.

261.241. Sellers of jams or jellies, no manufacturing facilities required, when — compliance with health standards and regulations required.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 261, RSMo, is amended by adding thereto one new section, to be known as section 261.241, to read as follows:

261.241. SELLERS OF JAMS OR JELLIES, NO MANUFACTURING FACILITIES REQUIRED, WHEN — COMPLIANCE WITH HEALTH STANDARDS AND REGULATIONS REQUIRED. — **Sellers of jams and jellies whose annual sales of jams and jellies are thirty thousand dollars or less shall not be required to construct or maintain separate facilities for the manufacture of food products. However, such sellers shall comply with all remaining health standards and regulations for the manufacture of food products pursuant to chapter 196, RSMo.**

Approved June 13, 2002

SB 644 [SB 644]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows veterans to obtain a specialized veteran motorcycle license plate.

AN ACT to amend chapter 301, RSMo, by adding thereto one new section relating to veterans license plates for motorcycles.

SECTION

A. Enacting clause.

301.4000. Military service special license plate for motorcycles, application, fee.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 301, RSMo, is amended by adding thereto one new section, to be known as section 301.4000, to read as follows:

301.4000. MILITARY SERVICE SPECIAL LICENSE PLATE FOR MOTORCYCLES, APPLICATION, FEE. — **Any person who served in the active military service in a branch of the armed forces of the United States during a period of war and was honorably discharged from such service may apply for special motorcycle license plates, either solely**

or jointly, for issuance for any motorcycle subject to the registration fees provided in section 301.055. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service in a foreign war and status as an honorably discharged veteran as the director may require. Upon presentation of the proof of eligibility and payment of a fifteen dollar fee in addition to the regulation registration fees, and presentation of other documents which may be required by law, the director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the director, with the words "U.S. VET" in place of the words "SHOW-ME-STATE". The plates shall be clearly visible at night and shall be aesthetically attractive, as prescribed by section 301.130. No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant. License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motorcycle may operate the motorcycle for the duration of the year licensed in the event of the death of the qualified person.

Approved July 3, 2002

SB 650 [CCS HCS SS#2 SB 650]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Removes statute of limitations for forcible rape and forcible sodomy.

AN ACT to repeal section 556.036, RSMo, and to enact in lieu thereof one new section relating to statute of limitations for sexual offenses, with penalty provisions and an emergency clause.

SECTION

- A. Enacting clause.
- 556.036. Time limitations.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 556.036, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 556.036, to read as follows:

556.036. TIME LIMITATIONS. — 1. A prosecution for murder, **forcible rape, attempted forcible rape, forcible sodomy, attempted forcible sodomy**, or any class A felony may be commenced at any time.

2. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the following periods of limitation:

- (1) For any felony, three years;
- (2) For any misdemeanor, one year;
- (3) For any infraction, six months.

3. If the period prescribed in subsection 2 **of this section** has expired, a prosecution may nevertheless be commenced for:

- (1) Any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself or herself not a party to
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the offense, but in no case shall this provision extend the period of limitation by more than three years. As used in this subdivision, the term "person who has a legal duty to represent an aggrieved party" shall mean the attorney general or the prosecuting or circuit attorney having jurisdiction pursuant to section 407.553, RSMo, for purposes of offenses committed pursuant to sections 407.511 to 407.556, RSMo; and

(2) Any offense based upon misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation by more than three years; and

(3) Any offense based upon an intentional and willful fraudulent claim of child support arrearage to a public servant in the performance of his or her duties within one year after discovery of the offense, but in no case shall this provision extend the period of limitation by more than three years.

4. An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

5. A prosecution is commenced either when an indictment is found or an information filed.

6. The period of limitation does not run:

(1) During any time when the accused is absent from the state, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; or

(2) During any time when the accused is concealing himself from justice either within or without this state; or

(3) During any time when a prosecution against the accused for the offense is pending in this state; or

(4) During any time when the accused is found to lack mental fitness to proceed pursuant to section 552.020, RSMo.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to revise the statute of limitations for certain sexual offenses, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved March 6, 2002

SB 656 [SCS SB 656]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires insurance policies to be governed by the English version filed with the Insurance Department.

AN ACT to amend chapter 375, RSMo, by adding thereto one new section relating to the interpretation of insurance materials, with penalty provisions.

SECTION

A. Enacting clause.

375.919. Use of language other than English permitted, when, disclosures — contractual relationship required for applicability of certain rules — misrepresentation, penalty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 375, RSMo, is amended by adding thereto one new section, to be known as section 375.919, to read as follows:

375.919. USE OF LANGUAGE OTHER THAN ENGLISH PERMITTED, WHEN, DISCLOSURES — CONTRACTUAL RELATIONSHIP REQUIRED FOR APPLICABILITY OF CERTAIN RULES — MISREPRESENTATION, PENALTY. — 1. An insurer, as defined in section 375.001, may provide an insurance policy, endorsement, rider and any explanatory material in a language other than English. In the event of a dispute regarding the insurance or advertising material, the English language version shall dictate the resolution. If a policy, endorsement or rider is provided in a language other than English, the insurer shall also, at the same time, provide to the policyholder a copy of such policy, endorsement or rider in English, and shall disclose on such document, in both English and the other language, the following:

- (1) The translation is for informational purposes only; and
- (2) The English language version of the policy will be controlling unless the language in the other language version is shown to be a fraudulent misrepresentation.

2. Any knowing misrepresentation in providing a policy, endorsement, rider or explanatory materials in a language other than English is a violation of sections 375.930 to 375.948.

Approved June 27, 2002

SB 675 [HS HCS SS SCS SB 675]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises election laws.

AN ACT to repeal sections 28.160, 115.013, 115.081, 115.083, 115.085, 115.087, 115.089, 115.095, 115.097, 115.099, 115.101, 115.122, 115.123, 115.127, 115.133, 115.135, 115.137, 115.151, 115.157, 115.159, 115.160, 115.162, 115.163, 115.179, 115.195, 115.225, 115.233, 115.237, 115.277, 115.279, 115.283, 115.284, 115.287, 115.291, 115.365, 115.367, 115.409, 115.417, 115.419, 115.427, 115.429, 115.433, 115.439, 115.453, 115.493, 115.507, 115.607, 115.613 and 115.755, RSMo, relating to elections, and to enact in lieu thereof fifty-eight new sections relating to the same subject, with penalty provisions and an emergency clause for a certain section.

SECTION

- A. Enacting clause.
 - 28.160. State entitled to certain fees — technology trust fund account established — additional fee, notary commissions — appropriation of funds, purpose — fees not collected, when.
 - 71.005. Candidates for municipal office, no arrearage for municipal taxes or user fees permitted.
 - 115.013. Definitions.
 - 115.074. Voting process and equipment, grants to upgrade or improve, award procedure — rulemaking authority.
 - 115.076. Administration of grant program — rulemaking authority.
 - 115.081. Number of judges to be appointed, supervisory judges, duties of.
 - 115.085. Qualifications of election judges.
 - 115.087. Selection of judges in counties not having a board of election commissioners.
 - 115.089. Terms of election judges appointed by board.
 - 115.095. Judge failing to appear, temporary judge to be appointed, how.
 - 115.097. Judge not to be absent from polls more than one hour — not more than one judge from the same party to be absent at the same time.
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- 115.098. Election judges, grant program to increase compensation, requirements — rulemaking authority.
 - 115.099. Authority to supervise judges.
 - 115.101. Judges' compensation, how set — not employees of election authority.
 - 115.102. Election judge, service as, employer not to discriminate against — violation, penalty.
 - 115.123. Public elections to be held on certain Tuesdays, exceptions — presidential primary, when held — exemptions.
 - 115.126. Advance voting period, election authorities to establish plan to implement, requirements — rulemaking authority.
 - 115.127. Notice of election, how, when given — striking names or issues from ballot, requirements — declaration of candidacy, officers for political subdivisions or special elections, filing date, when, notice requirements — candidate withdrawing, ballot reprinting, cost, how paid.
 - 115.133. Qualifications of voters.
 - 115.135. Persons entitled to register, when — identification required.
 - 115.137. Registered voters may vote in all elections — exception.
 - 115.151. Registration complete, when.
 - 115.157. Registration information may be computerized, information required — voter lists may be sold — candidates may receive list for reasonable fee — computerized registration system, requirements — voter history and information, how entered, when released — records closed, when.
 - 115.159. Registration by mail, voter I.D. card delivered to voter, when — delivery of absentee ballots, when.
 - 115.160. Driver's license applicants to receive voter registration application, contents — rules — forwarding of application to election authority, when.
 - 115.162. Secretary of state to provide voter registration applications at certain public offices — duties of voter registration agency — declination of registration.
 - 115.163. Precinct register required — computer or binder lists authorized — computer I.D. cards, procedures and uses — list of registered voters available, fee.
 - 115.179. Registration records to be canvassed, when.
 - 115.195. Death, felony, and misdemeanor convictions, persons adjudged incapacitated — records, when obtained.
 - 115.225. Automated equipment to be approved by secretary of state — standards to be met — rules, promulgation, procedure.
 - 115.233. Testing of automatic tabulating equipment, when done, procedure.
 - 115.237. Ballots, contents of — form of — rulemaking authority.
 - 115.277. Persons eligible to vote absentee.
 - 115.279. Application for absentee ballot, how made.
 - 115.283. Statements of absentee voters or persons providing assistance to absentee voters — forms — notary seal not required, when.
 - 115.284. Absentee voting process for permanently disabled persons established — election authority, duties — application, form — list of qualified voters established.
 - 115.287. Absentee ballot, how delivered.
 - 115.291. Confidentiality of applications for absentee ballots, list available to authorized persons free — certain cities and counties, special provisions, violations, penalty — fax, transmission may be used to deliver or return ballot, when.
 - 115.365. Nominating committee designated as to certain offices.
 - 115.367. Change of district boundaries, effect on nominating committee.
 - 115.409. Who may be admitted to polling place.
 - 115.417. Voter instruction cards to be delivered to polls — instructions to be posted, how.
 - 115.419. Sample ballots, cards or ballot labels to be delivered to the polls, when.
 - 115.420. Butterfly ballot prohibited, exceptions.
 - 115.427. Voter to present form of personal — rulemaking authority — identification mark in lieu of signature permitted, when.
 - 115.429. Person not allowed to vote — appeal, how taken — voter may be required to sign affidavit, when — false affidavit a class one offense.
 - 115.433. Judges to initial paper ballots or ballot cards, when.
 - 115.439. Procedure for voting paper ballot — rulemaking authority.
 - 115.453. Procedure for counting votes for candidates.
 - 115.493. Ballots and records to be kept one year, may be inspected, when.
 - 115.507. Announcement of results by verification board, contents, when due — abstract of votes to be official returns.
 - 115.607. County committee, selection of.
 - 115.613. Committeeman and committeewoman, how selected — tie vote, effect of — if no person elected a vacancy created — single candidate, effect of.
 - 115.755. Presidential primary, when held.
 - 115.801. Youth voting programs, grant program to be administered.
 - 115.803. Federal elections, grant program to improve election process.
 - 115.806. Rulemaking authority.
 - 1. Provisional ballots, used when, exceptions, procedure — rulemaking authority.
 - 115.083. Additional judges authorized, even number and bipartisan required.
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- 115.122. Any county, city, town or village may hold an election on August 5, 1997.
 B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 28.160, 115.013, 115.081, 115.083, 115.085, 115.087, 115.089, 115.095, 115.097, 115.099, 115.101, 115.122, 115.123, 115.127, 115.133, 115.135, 115.137, 115.151, 115.157, 115.159, 115.160, 115.162, 115.163, 115.179, 115.195, 115.225, 115.233, 115.237, 115.277, 115.279, 115.283, 115.284, 115.287, 115.291, 115.365, 115.367, 115.409, 115.417, 115.419, 115.427, 115.429, 115.433, 115.439, 115.453, 115.493, 115.507, 115.607, 115.613 and 115.755, RSMo, are repealed and fifty-eight new sections enacted in lieu thereof, to be known as sections 28.160, 71.005, 115.013, 115.074, 115.076, 115.081, 115.085, 115.087, 115.089, 115.095, 115.097, 115.098, 115.099, 115.101, 115.102, 115.123, 115.126, 115.127, 115.133, 115.135, 115.137, 115.151, 115.157, 115.159, 115.160, 115.162, 115.163, 115.179, 115.195, 115.225, 115.233, 115.237, 115.277, 115.279, 115.283, 115.284, 115.287, 115.291, 115.365, 115.367, 115.409, 115.417, 115.419, 115.420, 115.427, 115.429, 115.433, 115.439, 115.453, 115.493, 115.507, 115.607, 115.613, 115.755, 115.801, 115.803, 115.806 and 1, to read as follows:

28.160. STATE ENTITLED TO CERTAIN FEES — TECHNOLOGY TRUST FUND ACCOUNT ESTABLISHED — ADDITIONAL FEE, NOTARY COMMISSIONS — APPROPRIATION OF FUNDS, PURPOSE — FEES NOT COLLECTED, WHEN. — 1. The state shall be entitled to fees for services to be rendered by the secretary of state as follows:

For issuing commission to notary public	\$15.00
For countersigning and sealing certificates of official character	10.00
For all other certificates	5.00
For copying archive and state library records, papers or documents, for each page 8 ½ x 14 inches and smaller, not [more than	.10]
to exceed the actual cost of document search and duplication	
For duplicating microfilm, for each roll	[15.00],
not to exceed the actual cost of staff time required for searches and duplication	
For copying all other records, papers or documents, for each page 8 ½ x 14 inches and smaller, not [more than	.10]
to exceed the actual cost of document search and duplication	
For certifying copies of records and papers or documents	5.00
For causing service of process to be made	10.00
For electronic telephone transmittal, per page	2.00

2. There is hereby established the "Secretary of State's Technology Trust Fund Account" which shall be administered by the state treasurer. All yield, interest, income, increment, or gain received from time deposit of moneys in the state treasury to the credit of the secretary of state's technology trust fund account shall be credited by the state treasurer to the account. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of a biennium exceeds five million dollars. In any such biennium the amount in the fund in excess of five million dollars shall be transferred to general revenue.

3. The secretary of state may collect an additional fee of ten dollars for the issuance of new and renewal notary commissions which shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account.

4. The secretary of state may ask the general assembly to appropriate funds from the technology trust fund for the purposes of establishing, procuring, developing, modernizing and maintaining:

(1) An electronic data processing system and programs capable of maintaining a centralized database of all registered voters in the state;

(2) Library services offered to the citizens of this state;

(3) Administrative rules services, equipment and functions;

(4) Services, equipment and functions relating to securities;

(5) Services, equipment and functions relating to corporations and business organizations;

(6) Services, equipment and functions relating to the Uniform Commercial Code;

(7) Services, equipment and functions relating to archives; [and]

(8) Services, equipment and functions relating to record services; **and**

(9) **Services, equipment and functions relating to state and local elections.**

5. **Notwithstanding any provision of this section to the contrary, the secretary of state shall not collect fees, for processing apostilles, certifications and authentications prior to the placement of a child for adoption, in excess of one hundred dollars per child per adoption, or per multiple children to be adopted at the same time.**

71.005. CANDIDATES FOR MUNICIPAL OFFICE, NO ARREARAGE FOR MUNICIPAL TAXES OR USER FEES PERMITTED. — No person shall be a candidate for municipal office unless such person complies with the provisions of section 115.346, RSMo, regarding payment of municipal taxes or user fees.

115.013. DEFINITIONS. — As used in this chapter, unless the context clearly implies otherwise, the following terms mean:

(1) "Automatic tabulating equipment", the apparatus necessary to examine and automatically count votes, and the data processing machines which are used for counting votes and tabulating results;

(2) "Ballot", the ballot card [or], paper ballot **or ballot designed for use with an electronic voting system** on which each voter may cast all votes to which he or she is entitled at an election;

(3) "Ballot card", a ballot which is voted by making a punch or sensor mark which can be tabulated by automatic tabulating equipment;

(4) "Ballot label", the card, paper, booklet, page or other material containing the names of all offices and candidates and statements of all questions to be voted on;

(5) "Counting location", a location selected by the election authority for the automatic processing or counting, or both, of ballots;

(6) "County", any one of the several counties of this state or the city of St. Louis;

(7) "Disqualified", a determination made by a court of competent jurisdiction, the Missouri ethics commission, an election authority or any other body authorized by law to make such a determination that a candidate is ineligible to hold office or not entitled to be voted on for office;

(8) "District", an area within the state or within a political subdivision of the state from which a person is elected to represent the area on a policy-making body with representatives of other areas in the state or political subdivision;

(9) "Electronic voting system", a system of casting votes by use of marking devices, and counting votes by use of automatic tabulating or data processing equipment, **and includes computerized voting systems;**

(10) "Established political party" for the state, a political party which, at either of the last two general elections, polled for its candidate for any statewide office, more than two percent of

the entire vote cast for the office. "Established political party" for any district or political subdivision shall mean a political party which polled more than two percent of the entire vote cast at either of the last two elections in which the district or political subdivision voted as a unit for the election of officers or representatives to serve its area;

(11) "Federal office", the office of presidential elector, United States senator, or representative in Congress;

(12) "Independent", a candidate who is not a candidate of any political party and who is running for an office for which party candidates may run;

(13) "Major political party", the political party whose candidates received the highest or second highest number of votes at the last general election;

(14) "Marking device", either an apparatus in which ballots are inserted and voted by use of a punch apparatus, or any approved device [for marking paper ballots with ink or other substance] which will enable the votes to be counted by automatic tabulating equipment;

(15) "Municipal" or "municipality", a city, village, or incorporated town of this state;

[(15)] **(16) "New party", any political group which has filed a valid petition and is entitled to place its list of candidates on the ballot at the next general or special election;**

[(16)] **(17) "Nonpartisan", a candidate who is not a candidate of any political party and who is running for an office for which party candidates may not run;**

[(17)] **(18) "Political party", any established political party and any new party;**

[(18)] **(19) "Political subdivision", a county, city, town, village, or township of a township organization county;**

[(19)] **(20) "Polling place", the voting place designated for all voters residing in one or more precincts for any election;**

[(20)] **(21) "Precincts", the geographical areas into which the election authority divides its jurisdiction for the purpose of conducting elections;**

[(21)] **(22) "Public office", any office established by constitution, statute or charter and any employment under the United States, the state of Missouri, or any political subdivision or special district, but does not include any office in the reserve forces or the national guard or the office of notary public;**

[(22)] **(23) "Question", any measure on the ballot which can be voted "YES" or "NO";**

[(23)] **(24) "Relative within the [second] first degree by consanguinity or affinity", a spouse, [each grandparent,] parent, [brother, sister, niece, nephew, aunt, uncle], or child [and grandchild] of a person;**

(25) "Relative within the second degree by consanguinity or affinity", a spouse, parent, child, grandparent, brother, sister, grandchild, mother-in-law, father-in-law, daughter-in-law, or son-in-law;

[(24)] **(26) "Special district", any school district, water district, fire protection district, hospital district, health center, nursing district, or other districts with taxing authority, or other district formed pursuant to the laws of Missouri to provide limited, specific services;**

[(25)] **(27) "Special election", elections called by any school district, water district, fire protection district, or other district formed pursuant to the laws of Missouri to provide limited, specific services; and**

[(26)] **(28) "Voting district", the one or more precincts within which all voters vote at a single polling place for any election.**

115.074. VOTING PROCESS AND EQUIPMENT, GRANTS TO UPGRADE OR IMPROVE, AWARD PROCEDURE — RULEMAKING AUTHORITY. — 1. Subject to appropriation from federal funds, the secretary of state shall administer a grant program annually for the purposes of providing funds to election authorities to upgrade or improve the voting process or equipment. Such funding shall be in the form of matching grants. The secretary of state when awarding grants shall give priority to jurisdictions which have the highest number of residents according to the most recent federal census, with an income

below the federal poverty level as established by the federal department of health and human services or its successor agency. The secretary of state may promulgate rules to effectuate the provisions of this section.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.076. ADMINISTRATION OF GRANT PROGRAM — RULEMAKING AUTHORITY. — 1. Subject to appropriation of federal funds, the secretary of state shall administer a grant program annually for the purpose of providing funds to election authorities:

(1) To purchase electronic voting machines that are accessible to all individuals with disabilities, including people who are blind or visually impaired;

(2) To make polling places, including path of travel, entrances, exits and voting areas of each polling facility accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and secret, independent and verifiable participation, including privacy and independence, as for other voters;

(3) To provide individuals with disabilities and individuals who are blind and visually impaired with information about the accessibility of polling places, including outreach programs to inform individuals about the availability of accessible polling places and to train election officials, poll workers, and election volunteers on how to best promote the access and participation of individuals in elections, and to provide assistance in all accommodations needed by voters with disabilities.

Such funding shall be in the form of matching grants. The secretary of state when awarding grants shall give priority to jurisdictions which have the highest number of residents according to the most recent federal census, with an income below the federal poverty level as established by the federal department of health and human services or its successor agency. The secretary of state may promulgate rules to effectuate the provisions of this section.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.081. NUMBER OF JUDGES TO BE APPOINTED, SUPERVISORY JUDGES, DUTIES OF. —

1. Each election authority shall appoint [at least four] election judges for each polling place within its jurisdiction **in accordance with the provisions of this section.** [If the expected voter turnout at a polling place indicates that four judges may be insufficient, the election authority may appoint an even number of additional judges for the polling place. One-half of the judges at each polling place shall be members of one major political party, and one-half of the judges at each polling place shall be members of the other major political party.]

2. In all primary and general elections, the election authority shall appoint at least two judges from each major political party to serve at each polling place. No major

political party shall have a majority of the judges at any polling place. No established party shall have a greater number of judges at any polling place than any major political party.

3. In any election that is not a primary or general election, the election authority shall appoint at least one judge from each major political party to serve at each polling place. No major political party shall have a majority of the judges at any polling place. No established party shall have a greater number of judges at any polling place than any major political party.

[2.] 4. The election authority shall designate two of the judges appointed for each polling place, one from each major political party, as supervisory judges. Supervisory judges shall be responsible for the return of election supplies from the polling place to the election authority and shall have any additional duties prescribed by the election authority.

[3.] 5. Election judges may be employed to serve for the first half or last half of any election day. Such judges shall be paid one-half the regular rate of pay. If part-time judges are employed, the election authority shall employ such judges and shall see that a sufficient number for each period are present at all times so as to have the proper total number of judges present at each polling place throughout each election day. The election authority shall require that at each polling place at least one election judge from each political party serve a full day and that at all times during the day there be an equal number of election judges from each political party.

6. An election authority may appoint additional election judges representing other established political parties and additional election judges who do not claim a political affiliation. Any question which requires a decision by the majority of judges shall only be made by the judges from the major political parties.

115.085. QUALIFICATIONS OF ELECTION JUDGES. — No person shall be appointed to serve as an election judge who is not a registered voter in the jurisdiction of the election authority for which he or she is appointed. Each election judge shall be a person of good repute and character who can speak, read and write the English language. No person shall serve as an election judge at any polling place in which his or her name or the name of a relative within the second degree, by consanguinity or affinity, appears on the ballot. However, no relative of any unopposed candidate shall be disqualified from serving as an election judge in any election jurisdiction of the state. No election judge shall, during his or her term of office, hold any other public office, other than as a member of a political party committee or township office, except any person who is an employee of the state of Missouri or who is appointed to or employed by or elected to a board or commission of a political subdivision or special district may serve as an election judge except at a polling place where such political subdivision or special district has an issue or candidate on the ballot. In any county having a population of less than two hundred fifty thousand inhabitants, any candidate for the county committee of a political party who is not a candidate for any other office and who is unopposed for election as a member of the committee shall not be disqualified from serving as an election judge.

115.087. SELECTION OF JUDGES IN COUNTIES NOT HAVING A BOARD OF ELECTION COMMISSIONERS. — **1.** In each county which does not have a board of election commissioners, the election judges shall be selected from lists provided by the county committee of each major political party or as authorized pursuant to section 115.081. Not later than December tenth in each year in which county committeemen are elected, the county committee of each major political party shall submit to the [county clerk] election authority a list of persons qualified to serve as election judges in double the number required to hold a general election in the county. [Not later than February tenth in each year immediately following the year in which county committeemen are elected, each county clerk] For each election, the election authority shall select and appoint the number of judges required to hold [a general] the election [in his county, taking one-half of the judges from each of the lists]. If a county committee fails to present the

prescribed number of names of qualified persons by the time prescribed, the [county clerk] **election authority** may select and appoint the number of judges provided by law for the county committee's party. If the [county clerk] **election authority** deems any person on a list to be unqualified, [he] **the election authority** may request the county committee which submitted the list to furnish another name. [The election judges shall be appointed for a term ending on February tenth in the year immediately following the year in which county committeemen are next elected and until their successors are appointed and qualified.]

2. The state chairperson of each established political party may, in jurisdictions where no county committee exists and where the county clerk is the election authority, submit a list of persons qualified to serve as election judges to the county clerk. The county clerk may select and appoint additional judges from such list pursuant to section 115.081.

3. County clerks may compile a list of persons who claim no political affiliation and who volunteer to be election judges. A county clerk may select and appoint additional judges from such list pursuant to section 115.081.

115.089. TERMS OF ELECTION JUDGES APPOINTED BY BOARD. — Each board of election commissioners shall have authority to appoint election judges for individual elections, or for a term coincident with the term of the board and until the judges' successors are appointed and qualified. The board may ask the county committee of each major political party to submit a list of persons qualified to serve as election judges and may select and appoint judges from the lists. **The board may compile a list of persons who claim no political affiliation and who volunteer to be election judges and may select and appoint judges from the list.**

115.095. JUDGE FAILING TO APPEAR, TEMPORARY JUDGE TO BE APPOINTED, HOW. — If any judge fails to act or to appear by the time fixed by law for the opening of the polls, the election authority shall be notified immediately by an election judge. The election authority or the election judges present in the polling place shall appoint another judge from the same political party as the judge failing to act or to appear. If the election judges elect a qualified temporary judge, [he] **such judge** shall have full authority to act as judge for the election, except that [he] **such judge** may be removed at any time by the election authority and replaced with another qualified judge from the same political party as the removed judge. **Any judge selected pursuant to this section shall be selected to ensure that no political party shall have a majority of judges at any polling place and that each major political party has at least one judge serving at the polling place.**

115.097. JUDGE NOT TO BE ABSENT FROM POLLS MORE THAN ONE HOUR — NOT MORE THAN ONE JUDGE FROM THE SAME PARTY TO BE ABSENT AT THE SAME TIME. — No election judge shall be absent from the polls for more than one hour during the hours the polls are open on election day. No election judge shall be absent from the polls before 9:00 a.m. or after 5:00 p.m. on election day. No more than one judge from the same **major** political party shall be absent from the polls at the same time on election day.

115.098. ELECTION JUDGES, GRANT PROGRAM TO INCREASE COMPENSATION, REQUIREMENTS — RULEMAKING AUTHORITY. — **1. Subject to appropriation from federal funds, the secretary of state shall administer a grant program for the purpose of increasing the compensation of election judges. Such funding shall be made available to election authorities contingent upon the election authority increasing the compensation of election judges to an amount not less than seven dollars per hour. Such funding shall be in the form of matching grants. The secretary of state when awarding grants shall give priority to jurisdictions which have the highest number of residents according to the most recent federal census, with an income below the federal poverty level as established by the**

federal department of health and human services or its successor agency. The secretary of state may promulgate rules to effectuate the provisions of this section.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.099. AUTHORITY TO SUPERVISE JUDGES. — Each election authority shall have authority to direct judges in their duties and to compel compliance with the law. Each election authority may substitute judges at his discretion on election day. Each election authority shall also have authority at any time to remove any judge for good cause and to replace [him] the judge with a qualified person from the same political party as the removed judge. **Any judge selected pursuant to this section shall be selected to ensure that no political party shall have a majority of judges at any polling place and that each major political party has at least one judge serving at the polling place.**

115.101. JUDGES' COMPENSATION, HOW SET — NOT EMPLOYEES OF ELECTION AUTHORITY. — For service in conducting elections and house-to-house canvasses, each election judge shall be paid [a specific dollar amount which shall be set by the legislative authority of each county and by any city not within a county] **an amount established by the election authority.** For purposes of this section, and the Constitution of Missouri, election judges appointed by the election authority shall not be considered employees of the election authority.

115.102. ELECTION JUDGE, SERVICE AS, EMPLOYER NOT TO DISCRIMINATE AGAINST — VIOLATION, PENALTY. — **1. An employer shall not terminate, discipline, threaten or take adverse actions against an employee based on the employee's service as an election judge.**

2. An employee who is appointed to serve as an election judge may, on election day, be absent from his or her employment for the period of time that the election authority requires the employee to serve as election judge. Employees must notify employers at least seven days prior to an election that they will be absent from work on election day due to service as an election judge.

3. An employee discharged in violation of this section may bring a civil action against the employer within ninety days of discharge for recovery of lost wages and other damages caused by the violation and for an order directing reinstatement of the employee. If the employee prevails, the employee shall be entitled to receive reasonable attorney's fees and costs.

115.123. PUBLIC ELECTIONS TO BE HELD ON CERTAIN TUESDAYS, EXCEPTIONS — PRESIDENTIAL PRIMARY, WHEN HELD — EXEMPTIONS. — **1. All public elections shall be held on Tuesday. Except as provided in subsections 2, 3, and 4 [and 5] of this section, and section 247.180, RSMo, all public elections shall be held on the general election day, the primary election day, the general municipal election day, the first Tuesday after the first Monday in February or November, or on another day expressly provided by city or county charter, the first Tuesday after the first Monday in June and in nonprimary years on the first Tuesday after the first Monday in August.**

2. Notwithstanding the provisions of subsection 1 of this section, an election for a presidential primary held pursuant to sections 115.755 to 115.785 shall be held on the first Tuesday after the first Monday in March of each presidential election year.

3. [Notwithstanding the provisions of subsection 1 of this section, school districts may hold elections on the first Tuesday after the first Monday in June and in nonprimary years on the first Tuesday after the first Monday in August, and municipalities may hold elections in nonprimary years on the first Tuesday after the first Monday in August.

4.] The following elections shall be exempt from the provisions of subsection 1 of this section:

- (1) Bond elections necessitated by fire, vandalism or natural disaster;
- (2) Elections for which ownership of real property is required by law for voting; and
- (3) Special elections to fill vacancies and to decide tie votes or election contests.

[5.] 4. No city or county shall adopt a charter or charter amendment which calls for elections to be held on dates other than those established in subsection 1 of this section.

[6.] 5. Nothing in this section prohibits a charter city or county from having its primary election in March if the charter provided for a March primary before August 28, 1999.

[7.] 6. Nothing in this section shall prohibit elections held pursuant to section 65.600, RSMo, but no other issues shall be on the March ballot except pursuant to this chapter.

115.126. ADVANCE VOTING PERIOD, ELECTION AUTHORITIES TO ESTABLISH PLAN TO IMPLEMENT, REQUIREMENTS — RULEMAKING AUTHORITY. — 1. Notwithstanding any provision of this chapter to the contrary, election authorities shall establish a plan to implement an advance voting period when eligible registered voters may vote before any general election in presidential election years at the office of the election authority and up to four other polling places designated by and under the control of the election authority. Such plan shall provide that the permissible advance voting period shall begin fourteen days prior to such election and end at 5:00 p.m. on the Wednesday before the day of such election.

2. Election authorities shall, pursuant to subsection 1 of this section, establish in their plans the hours and locations for advance voting. The election authority shall have all advance voting locations open on all business days during the advance voting period, and may have all advance voting locations open on Saturdays, Sundays and holidays during the advance voting period.

3. Except as provided in this section, advance voting procedures shall be conducted pursuant to sections 115.407 to 115.445. The secretary of state shall design the necessary application for use in an advance voting program pursuant to this section. All election authorities in this state shall submit to the secretary of state a plan to implement the advance voting period by December 31, 2002. The secretary of state shall assist election authorities in developing a plan for the implementation of an advance voting program.

4. The plans established pursuant to this section shall also require that before the precinct registers are delivered to the polling places for an election, the election authority shall record in the precinct registers the names of all voters who have submitted an advance voting ballot. The election judge shall not allow any person who has voted an advance voting ballot in the election to vote at the polls on election day. If it is determined that any voter submitted an advance voting ballot and voted at the polls on election day, such person, having voted more than once, is guilty of a class one election offense pursuant to subdivision (2) of section 115.631.

5. The secretary of state may promulgate rules to effectuate the provisions of this section.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently

held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.127. NOTICE OF ELECTION, HOW, WHEN GIVEN — STRIKING NAMES OR ISSUES FROM BALLOT, REQUIREMENTS — DECLARATION OF CANDIDACY, OFFICERS FOR POLITICAL SUBDIVISIONS OR SPECIAL ELECTIONS, FILING DATE, WHEN, NOTICE REQUIREMENTS — CANDIDATE WITHDRAWING, BALLOT REPRINTING, COST, HOW PAID. — 1. Except as provided in subsection 4 of this section, upon receipt of notice of a special election to fill a vacancy submitted pursuant to section 115.125, the election authority shall cause legal notice of the special election to be published in a newspaper of general circulation in its jurisdiction. The notice shall include the name of the officer or agency calling the election, the date and time of the election, the name of the office to be filled and the date by which candidates must be selected or filed for the office. Within one week prior to each special election to fill a vacancy held in its jurisdiction, the election authority shall cause legal notice of the election to be published in two newspapers of different political faith and general circulation in the jurisdiction. The legal notice shall include the date and time of the election, the name of the officer or agency calling the election and a sample ballot. If there is only one newspaper of general circulation in the jurisdiction, the notice shall be published in the newspaper within one week prior to the election. If there are two or more newspapers of general circulation in the jurisdiction, but no two of opposite political faith, the notice shall be published in any two of the newspapers within one week prior to the election.

2. Except as provided in subsections 1 and 4 of this section and in sections 115.521, 115.549 and 115.593, the election authority shall cause legal notice of each election held in its jurisdiction to be published. The notice shall be published in two newspapers of different political faith and qualified pursuant to chapter 493, RSMo, which are published within the bounds of the area holding the election. If there is only one so qualified newspaper, then notice shall be published in only one newspaper. If there is no newspaper published within the bounds of the election area, then the notice shall be published in two qualified newspapers of different political faith serving the area. Notice shall be published twice, the first publication occurring in the second week prior to the election, and the second publication occurring within one week prior to the election. Each such legal notice shall include the date and time of the election, the name of the officer or agency calling the election and a sample ballot; and, unless notice has been given as provided by section 115.129, the second publication of notice of the election shall include the location of polling places. The election authority may provide any additional notice of the election it deems desirable.

3. The election authority shall print the official ballot as the same appears on the sample ballot, and no candidate's name or ballot issue which appears on the sample ballot or official printed ballot shall be stricken or removed from the ballot except on death of a candidate or by court order.

4. In lieu of causing legal notice to be published in accordance with any of the provisions of this chapter, the election authority in jurisdictions which have less than [five hundred] **seven hundred fifty** registered voters and in which no newspaper qualified pursuant to chapter 493, RSMo, is published, may cause legal notice to be mailed during the second week prior to the election, by first class mail, to each registered voter at [his] **the voter's** voting address. All such legal notices shall include the date and time of the election, the location of the polling place, the name of the officer or agency calling the election and a sample ballot.

5. If the opening date for filing a declaration of candidacy for any office in a political subdivision or special district is not required by law or charter, the opening filing date shall be 8:00 a.m., the fifteenth Tuesday prior to the election. If the closing date for filing a declaration of candidacy for any office in a political subdivision or special district is not required by law or charter, the closing filing date shall be 5:00 p.m., the eleventh Tuesday prior to the election. The political subdivision or special district calling an election shall, before the fifteenth Tuesday prior

to any election at which offices are to be filled, notify the general public of the opening filing date, the office or offices to be filled, the proper place for filing and the closing filing date of the election. Such notification may be accomplished by legal notice published in at least one newspaper of general circulation in the political subdivision or special district.

6. Except as provided for in sections 115.247 and 115.359, if there is no additional cost for the printing or reprinting of ballots or if the candidate agrees to pay any printing or reprinting costs, a candidate who has filed for an office or who has been duly nominated for an office, may, at any time after the certification required in section 115.125 but no later than 5:00 p.m. on the sixth Tuesday before the election, withdraw as a candidate pursuant to a court order, which, except for good cause shown by the election authority in opposition thereto, shall be freely given upon application by the candidate to the circuit court of the area of such candidate's residence.

115.133. QUALIFICATIONS OF VOTERS. — 1. Except as provided in subsection 2 of this section, any citizen of the United States who is a resident of the state of Missouri and seventeen years and six months of age or older shall be entitled to register and to vote in any election which is held on or after his eighteenth birthday.

2. No person who is adjudged incapacitated shall be entitled to register or vote. No person shall be entitled to vote:

- (1) While confined under a sentence of imprisonment;
- (2) While on probation or parole after conviction of a felony, until finally discharged from such probation or parole; or
- (3) After conviction of a felony or misdemeanor connected with the right of suffrage.

3. Except as provided in federal law or federal elections and in section 115.277, no person shall be entitled to vote if the person has not registered to vote in the jurisdiction of his or her residence prior to the deadline to register to vote, unless the voter is an intrastate new resident or an interstate new resident, as defined in section 115.275.

115.135. PERSONS ENTITLED TO REGISTER, WHEN — IDENTIFICATION REQUIRED. —

1. Any person who is qualified to vote, or who shall become qualified to vote on or before the day of election, shall be entitled to register in the jurisdiction within which he or she resides. In order to vote in any election for which registration is required, a person must be registered **to vote in the jurisdiction of his or her residence** no later than 5:00 p.m., or the normal closing time of any public building where the registration is being held if such time is later than 5:00 p.m., on the fourth Wednesday prior to the election, **unless the voter is an intrastate new resident or an interstate new resident, as defined in section 115.275.** In no case shall registration for an election extend beyond 10:00 p.m. on the fourth Wednesday prior to the election. Any person registering after such date shall be eligible to vote in subsequent elections.

2. A person applying to register with an election authority or a deputy registration official shall present a valid Missouri drivers license or other form of personal identification at the time of registration.

3. Except as provided in federal law or federal elections and in section 115.277, no person shall be entitled to vote if the person has not registered to vote in the jurisdiction of his or her residence prior to the deadline to register to vote, unless the voter is an intrastate new resident or an interstate new resident, as defined in section 115.275.

115.137. REGISTERED VOTERS MAY VOTE IN ALL ELECTIONS — EXCEPTION. — 1. Except as provided in subsection 2 of this section, any citizen who is entitled to register and vote shall be entitled to register for and vote **pursuant to the provisions of this chapter** in all statewide public elections and all public elections held for districts and political subdivisions within which he resides.

2. Any person who and only persons who fulfill the ownership requirements shall be entitled to vote in elections for which ownership of real property is required by law for voting.

115.151. REGISTRATION COMPLETE, WHEN. — 1. Each qualified applicant who appears before the election authority shall be deemed registered as of the time the applicant's completed, signed and sworn registration application is witnessed by the election authority or deputy registration official.

2. Each applicant who registers by mail shall be deemed to be registered as of the date the application is postmarked, if such application is accepted and not rejected by the election authority and the verification notice required pursuant to section 115.155 is not returned as undeliverable by the postal service.

3. Each applicant who registers at a voter registration agency or the division of motor vehicle and drivers licensing of the department of revenue shall be deemed to be registered as of the date the application is signed by the applicant, if such application is accepted and not rejected by the election authority and the verification notice required pursuant to section 115.155 is not returned as undeliverable by the postal service. **Voter registration agencies and the division of motor vehicle and drivers licensing of the department of revenue shall transmit voter registration application forms to the appropriate election authority not later than five business days after the form is completed by the applicant.**

115.157. REGISTRATION INFORMATION MAY BE COMPUTERIZED, INFORMATION REQUIRED — VOTER LISTS MAY BE SOLD — CANDIDATES MAY RECEIVE LIST FOR REASONABLE FEE — COMPUTERIZED REGISTRATION SYSTEM, REQUIREMENTS — VOTER HISTORY AND INFORMATION, HOW ENTERED, WHEN RELEASED — RECORDS CLOSED, WHEN.

— **1.** The election authority may place all information on any registration cards in computerized form in accordance with subsection 2 of section 115.158. No election authority or secretary of state shall furnish to any member of the public electronic media or printout showing any registration information, except as provided in this section. **Except as provided in subsection 2 of this section,** the election authority or secretary of state shall make available electronic media or printouts showing unique voter identification numbers, voters' names, dates of birth, addresses, townships or wards, and precincts. Electronic data shall be maintained in at least the following separate fields:

- (1) Voter identification number;
- (2) First name;
- (3) Middle initial;
- (4) Last name;
- (5) Suffix;
- (6) Street number;
- (7) Street direction;
- (8) Street name;
- (9) Street suffix;
- (10) Apartment number;
- (11) City;
- (12) State;
- (13) Zip code;
- (14) Township;
- (15) Ward;
- (16) Precinct;
- (17) Senatorial district;
- (18) Representative district;
- (19) Congressional district.

All election authorities shall enter voter history in their computerized registration systems and shall, not more than six months after the election, forward such data to the centralized voter registration system established in section 115.158. **Except as provided in subsection 2 of this section,** the election authority shall also furnish, for a fee, electronic media or a printout showing

the names, dates of birth and addresses of voters, or any part thereof, within the jurisdiction of the election authority who voted in any specific election, including primary elections, by township, ward or precinct, provided that nothing in this chapter shall require such voter information to be released to the public over the Internet. The amount of fees charged for information provided in this section shall be established pursuant to chapter 610, RSMo. All revenues collected by the secretary of state pursuant to this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account established pursuant to section 28.160, RSMo. In even-numbered years, each election authority shall, upon request, supply the voter registration list for its jurisdiction to all candidates and party committees for a charge established pursuant to chapter 610, RSMo. **Except as provided in subsection 2 of this section,** all election authorities shall make the information described in this section available pursuant to chapter 610, RSMo. Any election authority who fails to comply with the requirements of this section shall be subject to the provisions of chapter 610, RSMo.

2. Any person working as an undercover officer of a local, state or federal law enforcement agency, persons in witness protection programs, and victims of domestic violence and abuse who have received orders of protection pursuant to chapter 455, RSMo, shall be entitled to apply to the circuit court having jurisdiction in his or her county of residence to have the residential address on his or her voter registration records closed to the public if the release of such information could endanger the safety of the person. Any person working as an undercover agent or in a witness protection program shall also submit a statement from the chief executive officer, as defined in subsection 2 of section 590.100, RSMo, of the agency under whose direction he or she is serving. The petition to close the residential address shall be incorporated into any petition for protective order provided by circuit clerks pursuant to chapter 455, RSMo. If satisfied that the person filing the petition meets the qualifications of this subsection, the circuit court shall issue an order to the election authority to keep the residential address of the voter a closed record and the address may be used only for the purposes of administering elections pursuant to this chapter. The election authority may require the voter who has a closed residential address record to verify that his or her residential address has not changed or to file a change of address and to affirm that the reasons contained in the original petition are still accurate prior to receiving a ballot. A change of address within an election authority's jurisdiction shall not require that the voter file a new petition. Any voter who no longer qualifies pursuant to this subsection to have his or her residential address as a closed record shall notify the circuit court. Upon such notification, the circuit court shall void the order closing the residential address and so notify the election authority.

115.159. REGISTRATION BY MAIL, VOTER I.D. CARD DELIVERED TO VOTER, WHEN — DELIVERY OF ABSENTEE BALLOTS, WHEN. — 1. Any person who is qualified to register in Missouri shall, upon application, be entitled to register by mail. Upon request, application forms shall be furnished by the election authority or the secretary of state.

2. Notwithstanding any provision of law to the contrary, the election authority shall not deliver any voter identification card to any person who registers to vote by mail until after such person has voted, in person, after presentation of a proper form of identification, for the first time following registration at his new polling place designated by the election authority.

3. Notwithstanding any provision of law to the contrary, the election authority shall not deliver any absentee ballot to any person who registers to vote by mail until after such person has:

(1) Voted, in person, after presentation of a proper form of identification set out in section 115.427, for the first time following registration; or

(2) Provided a copy of identification set out in section 115.427 to the election authority.

This subsection shall not apply to those persons identified in section 115.283 who are exempted from obtaining a notary seal or signature on their absentee ballots.

115.160. DRIVER'S LICENSE APPLICANTS TO RECEIVE VOTER REGISTRATION APPLICATION, CONTENTS — RULES — FORWARDING OF APPLICATION TO ELECTION AUTHORITY, WHEN. — 1. All Missouri driver's license applicants shall receive a voter registration application form as a simultaneous part of the application for a driver's license, renewal of driver's license, change of address, duplicate request and a nondriver's license.

2. If a single application form is used, the voter registration application portion of any application described in subsection 1 of this section may not require any information that duplicates information required in the driver's license portion of the form, except a second signature or other information required by law.

3. After conferring with the secretary of state as the chief state election official responsible for overseeing of the voter registration process, the director of revenue shall adopt rules and regulations pertaining to the format of the voter registration application used by the department.

4. No information relating to the failure of an applicant for a driver's license or nondriver's license to sign a voter registration application may be used for any purpose other than voter registration.

5. Any voter registration application received pursuant to the provisions of this section shall be forwarded to the election authority located within that county or any city not within a county, or if there is more than one election authority within the county, then to the election authority located nearest to the location where the driver's license application was received. The election authority receiving the application forms shall review the applications and forward any applications pertaining to a different election authority to that election authority.

6. A completed voter registration application accepted in the driver's licensing process shall be transmitted to the election authority described in subsection 5 of this section [not later than ten days after the date of acceptance or if the voter registration application is accepted within five days before the last day for registration to vote in an election, the application shall be transmitted to the election authority described in subsection 5 of this section] not later than five **business** days after the [date of acceptance] **form is completed by the applicant.**

115.162. SECRETARY OF STATE TO PROVIDE VOTER REGISTRATION APPLICATIONS AT CERTAIN PUBLIC OFFICES — DUTIES OF VOTER REGISTRATION AGENCY — DECLINATION OF REGISTRATION. — 1. A voter registration application shall be provided by the secretary of state in all offices of the state that provide public assistance, all offices that provide state-funded programs primarily engaged in providing services to persons with disabilities, and other offices as directed by the governor. In addition all armed forces recruitment offices shall be considered a voter registration agency.

2. At each voter registration agency, the following services shall be made available:

(1) Assistance to applicants in completing voter registration application forms, unless the applicant refuses such assistance;

(2) Acceptance of completed voter registration application forms for transmittal to the election authority located in the same county or any city not within a county, or if there is more than one election authority within the county, to the election authority nearest to the office of the agency. The election authority receiving the application forms shall review the applications and forward any applications pertaining to a different election authority to that election authority[. Forms shall be transmitted as soon as possible and according to dates established by the state election authority];

(3) Voter registration sites shall transmit voter registration application forms to the appropriate election authority not later than five business days after the form is completed by the applicant;

[(3)] (4) If a voter registration agency provides services to a person with a disability at the person's home, the agency shall provide the services provided in this section at the person's home.

3. An applicant declining to register in any agency shall be noted in a declination section incorporated into the voter registration form used by the agency. No information relating to a declination to register to vote in connection with an application made at a voter registration agency may be used for any purpose other than voter registration.

[4. Subject to the approval of the secretary of state, the voter registration agency shall adopt rules and regulations pertaining to the format of a voter registration application to be used by that agency.]

115.163. PRECINCT REGISTER REQUIRED — COMPUTER OR BINDER LISTS AUTHORIZED — COMPUTER I.D. CARDS, PROCEDURES AND USES — LIST OF REGISTERED VOTERS AVAILABLE, FEE. — 1. Each election authority shall arrange one set of registration cards into permanent binders for each precinct, or it may authorize the creation of computerized lists for each precinct. The computerized lists or binder shall be arranged alphabetically or by street address as the election authority determines and shall be known as the "precinct register". At least one set of registration cards shall be arranged in a central file in such a manner as the election authority determines, and shall be known as the "headquarters register". The election authority shall be the custodian of the registration records, and no cards or records shall be removed or handled except at its direction and under its supervision. The precinct registers shall be kept by the election authority in a secure place, except when given to election judges for use at an election. **Except as provided in subsection 2 of section 115.157,** all registration records shall be open to inspection by the public at all reasonable times.

2. In counties using computer printouts as precinct registers, a new computer printout shall be printed prior to each election.

3. In those counties using computer printouts as precinct registers, the election authority shall send to each voter a voter identification card [not less] **no later** than ninety days prior to the **date of a primary** [election in each year in which a primary and] **or** general election [will be held] **for federal office**, unless the voter has received such a card during the preceding six months. The voter identification card shall contain the voter's name, address, precinct and a signature line. The card may also contain other voting information at the discretion of the election authority. The voter shall be instructed to sign the card for use as identification at the polls. The voter identification card shall be sent to a voter after a new registration or a change of address. If any voter shall lose his voter identification card he may request a new one from the election authority. The voter identification card authorized pursuant to this section may be used as a canvass of voters in lieu of the provisions set out in sections 115.179 to 115.193. **Except as provided in subsection 2 of section 115.157,** anyone, upon request and payment of a reasonable fee, may obtain a printout, list and/or computer tape of those newly registered voters or voters deleted from the voting rolls, since the last canvass or updating of the rolls. **The election authority may authorize the use of the postal service contractors under the federal National Change of Address program to identify those voters whose address is not correct on the voter registration records. The election authority shall not be required to mail a voter registration card to those voters whose addresses are incorrect. Confirmation notices to such voters required by section 115.193 shall be sent to the corrected address provided by the National Change of Address program.**

115.179. REGISTRATION RECORDS TO BE CANVASSED, WHEN. — 1. [In each jurisdiction with a board of election commissioners, the board of election commissioners] **The election authority** shall have the registration records of all precincts in its jurisdiction canvassed every [four] **two years in accordance with subsection 3 of section 115.163** and that it be completed no later than ninety days prior to the date of a primary or general election for federal office. **The**

election authority may utilize postal service contractors under the federal National Change of Address program to canvass the records.

2. In each jurisdiction without a board of election commissioners, the county clerk shall have the registration records of all precincts in its jurisdiction canvassed every [four] **two** years **in accordance with subsection 3 of section 115.163** and that it be completed no later than ninety days prior to the date of a primary or general election for federal office.

115.195. DEATH, FELONY, AND MISDEMEANOR CONVICTIONS, PERSONS ADJUDGED INCAPACITATED — RECORDS, WHEN OBTAINED. — 1. At least once each month, the [election authority shall obtain from the] state or local registrar of vital statistics[,] **shall provide to the election authority** a list of the name and address, if known, of each person over eighteen years of age in its jurisdiction whose death has been reported to him or her **and provide a copy of the list of any death reported in the state to the secretary of state. The secretary of state shall notify the election authority of the jurisdiction in which the deceased resided of the information received pursuant to this subsection.**

2. At least once each month, the [election authority shall obtain from the] clerk of the circuit court **of each county and city not within a county shall provide to the election authority a list** of the name and address, if known, of each person over eighteen years of age in [its] **the court's** jurisdiction who has been convicted of any felony, or of a misdemeanor connected with the right of suffrage. **A copy of the list shall also be submitted to the secretary of state. The secretary of state shall notify the election authority of the jurisdiction in which an offender resides of the information received pursuant to this subsection.**

3. At least once each month, the [election authority shall obtain from the] clerk of the probate division of the circuit court **of each county and city not within a county shall provide to the election authority a list** of the name and address, if known, of each person over eighteen years of age in [its] **the court's** jurisdiction who has been adjudged incapacitated and has not been restored to capacity. **A copy of the list shall also be submitted to the secretary of state. The secretary of state shall notify the election authority of the jurisdiction in which such person resides of the information received pursuant to this subsection.**

4. All state and local registrars and all clerks of probate divisions of the circuit courts and circuit courts shall provide the information specified in this section, without charge, [when requested by an] **to the election authority or the secretary of state.**

115.225. AUTOMATED EQUIPMENT TO BE APPROVED BY SECRETARY OF STATE — STANDARDS TO BE MET — RULES, PROMULGATION, PROCEDURE. — 1. Before use by election authorities in this state, the secretary of state shall approve the marking devices and the automatic tabulating equipment used in electronic voting systems and may promulgate rules and regulations to implement the intent of sections 115.225 to 115.235.

2. No electronic voting system shall be approved unless it:

- (1) Permits voting in absolute secrecy;
- (2) Permits each voter to vote for as many candidates for each office as [he] **a voter** is lawfully entitled to vote for;
- (3) Permits each voter to vote for or against as many questions as [he] **a voter** is lawfully entitled to vote on, and no more;
- (4) Provides facilities for each voter to cast as many write-in votes for each office as [he] **a voter** is lawfully entitled to cast;
- (5) Permits each voter at a general election to vote for all candidates of one party by one punch or mark or to vote a split ticket, as [he] **a voter** desires;
- (6) Permits each voter in a primary election to vote for the candidates of only one party announced by the voter in advance;

(7) Permits each voter at a presidential election to vote by use of a single punch or mark for the candidates of one party or group of petitioners for president, vice president and their presidential electors;

(8) Accurately counts all proper votes cast for each candidate and for and against each question;

(9) Is set to reject all votes, except write-in votes, for any office and on any question when the number of votes exceeds the number a voter is lawfully entitled to cast;

(10) Permits each voter, while voting, to clearly see the ballot label;

(11) Has been tested and is certified by an independent authority that meets the voting system standards developed by the Federal Election Commission or its successor agency. The provisions of this subdivision shall not be required for any system purchased prior to August 28, 2002.

3. [No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] **The secretary of state shall promulgate rules and regulations to allow the use of a computerized voting system. The procedures shall provide for the use of a computerized voting system with the ability to provide a paper audit trail. Notwithstanding any provisions of this chapter to the contrary, such a system may allow for the storage of processed ballot materials in an electronic form.**

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.233. TESTING OF AUTOMATIC TABULATING EQUIPMENT, WHEN DONE, PROCEDURE.

— Within [five] **fourteen** days prior to an election at which an electronic voting system is to be used, the election authority shall have the automatic tabulating equipment tested to ascertain that the equipment is in compliance with the law and that it will correctly count the votes cast for all offices and on all questions. At least forty-eight hours prior to the test, notice of the time and place of the test shall be mailed to each independent and new party candidate and the chairman of the county committee of each established political party named on the ballot. The test shall be observed by at least two persons designated by the election authority, one from each major political party, and shall be open to representatives of the political parties, candidates, the news media and the public. The test shall be conducted by processing a preaudited group of ballots. If any error is detected, the cause shall be ascertained and corrected, and an errorless count shall be made before the tabulating equipment is approved.

115.237. BALLOTS, CONTENTS OF — FORM OF — RULEMAKING AUTHORITY. — 1.

Each ballot printed **or designed for use with an electronic voting system** for any election [under the provisions of sections 115.001 to 115.641] **pursuant to this chapter** shall contain all questions and the names of all offices and candidates certified or filed pursuant to [sections 115.001 to 115.641] **this chapter** and no other. As far as practicable, all questions and the names of all offices and candidates for which each voter is entitled to vote shall be printed on one page except for the ballot for political party committee persons in polling places not utilizing an electronic voting system which may be printed separately and in conformity with the requirements contained in this section. As far as practicable, ballots containing only questions and the names of nonpartisan offices and candidates shall be printed in accordance with the provisions of this

section, except that the ballot information may be listed in vertical or horizontal rows. The names of candidates for each office shall be listed in the order in which they are filed.

2. **Except as provided in subsection 4 of this section**, each ballot shall [be plain paper, through which printing or writing cannot be read, and shall] have:

(1) Each party name printed in capital letters not less than eighteen point in size;
 (2) A circle one-half inch in diameter immediately below each party name;
 (3) The name of each office printed in capital letters not less than eight point in size;
 (4) The name of each candidate printed in capital letters not less than ten point in size;
 (5) A small square, the sides of which shall not be less than one-fourth inch in length, printed directly to the left of each candidate's name and on the same line as the candidate's name. When write-in votes are authorized and no candidate's name is to be printed under the name of an office in a party or nonpartisan column, under the name of the office in the column shall be printed a square. Directly to the right of the square shall be printed a horizontal line on which the voter may vote for a person whose name does not appear on the ballot. When more than one position is to be filled for an office, and the number of candidates' names under the office in a column is less than the number of positions to be filled, the number of squares and write-in lines printed in the column shall equal the difference between the number of candidates' names and the number of positions to be filled;

(6) The list of candidates of each party and all nonpartisan candidates placed in separate columns with a heavy vertical line between each list;

(7) A horizontal line extending across the ballot three-eighths of an inch below the last name or write-in line under each office in such a manner that the names of all candidates and all write-in lines for the same office appear between the same horizontal lines. If write-in votes are not authorized, the horizontal line shall extend across the ballot three-eighths of an inch below the name of the last candidate under each office;

(8) In a separate column or beneath a heavy horizontal line under all names and write-in lines, all questions;

(9) At least three-eighths of an inch below all other matter on the ballot, printed in ten point Gothic type, the words "Instructions to Voters" followed by directions to the voter on marking [his] the ballot as provided in section 115.439;

(10) Printed at the top on the face of the ballot the words "Official Ballot" followed by the date of the election and the statement "Instruction to Voters: Place an X in the square opposite the name of the person for whom you wish to vote."

3. As nearly as practicable, each ballot shall be in substantially the following form:

OFFICIAL BALLOT

DATE

REPUBLICAN <input type="radio"/> For President and Vice President <input type="checkbox"/>	DEMOCRATIC <input type="radio"/> For President and Vice President <input type="checkbox"/>	THIRD PARTY <input type="radio"/> For President and Vice President <input type="checkbox"/>	INDEPENDENT <input type="radio"/> For President and Vice President <input type="checkbox"/>
For United States Senator <input type="checkbox"/>	For United States Senator <input type="checkbox"/>	For United States Senator <input type="checkbox"/>	For United States Senator <input type="checkbox"/>

For Governor <input type="checkbox"/>	For Governor <input type="checkbox"/>	For Governor <input type="checkbox"/>	For Governor <input type="checkbox"/>
For Lieutenant Governor <input type="checkbox"/>	For Lieutenant Governor <input type="checkbox"/>	For Lieutenant Governor <input type="checkbox"/>	For Lieutenant Governor <input type="checkbox"/>
For Secretary of State <input type="checkbox"/>	For Secretary of State <input type="checkbox"/>	For Secretary of State <input type="checkbox"/>	For Secretary of State <input type="checkbox"/>
For Treasurer <input type="checkbox"/>	For Treasurer <input type="checkbox"/>	For Treasurer <input type="checkbox"/>	For Treasurer <input type="checkbox"/>
For Attorney General <input type="checkbox"/>	For Attorney General <input type="checkbox"/>	For Attorney General <input type="checkbox"/>	For Attorney General <input type="checkbox"/>
For United States Representative <input type="checkbox"/>	For United States Representative <input type="checkbox"/>	For United States Representative <input type="checkbox"/>	For United States Representative <input type="checkbox"/>
For State Senator <input type="checkbox"/>	For State Senator <input type="checkbox"/>	For State Senator <input type="checkbox"/>	For State Senator <input type="checkbox"/>
For State Representative <input type="checkbox"/>	For State Representative <input type="checkbox"/>	For State Representative <input type="checkbox"/>	For State Representative <input type="checkbox"/>
For Circuit Judge <input type="checkbox"/>	For Circuit Judge <input type="checkbox"/>	For Circuit Judge <input type="checkbox"/>	For Circuit Judge <input type="checkbox"/>

4. The secretary of state shall promulgate rules that specify uniform standards for ballot layout for each electronic or computerized ballot counting system approved under the provisions of 115.225 so that the ballot used with any counting system is, where possible, consistent with the intent of this section. Nothing in this section shall be construed to require the format specified in this section if it does not meet the requirements of the ballot counting system used by the election authority.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently

held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.277. PERSONS ELIGIBLE TO VOTE ABSENTEE. — 1. Except as provided in subsections 3, 4 and 5 of this section, any registered voter of this state may vote by absentee ballot for all candidates and issues for which such voter would be eligible to vote at the polling place if such voter expects to be prevented from going to the polls to vote on election day due to:

(1) Absence on election day from the jurisdiction of the election authority in which such voter is registered to vote;

(2) Incapacity or confinement due to illness or physical disability, **including a person who is primarily responsible for the physical care of a person who is incapacitated or confined due to illness or disability;**

(3) Religious belief or practice;

(4) Employment as an election authority, as a member of an election authority, or by an election authority at a location other than such voter's polling place;

(5) Incarceration, provided all qualifications for voting are retained.

2. Any person in **active duty military** [federal] service, as defined in section 115.275, who is eligible to register and vote [in any election] in this state may vote **only** in the election of **presidential and vice presidential electors, United States senator and representative in Congress** even if the person is not registered. Each person in federal service may vote by absentee ballot or, upon submitting an affidavit that the person is qualified to vote in the election, may vote at the person's polling place.

3. Any interstate former resident, as defined in section 115.275, may vote by absentee ballot for presidential and vice presidential electors.

4. Any intrastate new resident, as defined in section 115.275, may vote by absentee ballot at the election for presidential and vice presidential electors, United States senator, representative in Congress, statewide elected officials and statewide questions, propositions and amendments from such resident's new jurisdiction of residence after registering to vote in such resident's new jurisdiction of residence.

5. Any new resident, as defined in section 115.275, may vote by absentee ballot for presidential and vice presidential electors after registering to vote in such resident's new jurisdiction of residence.

115.279. APPLICATION FOR ABSENTEE BALLOT, HOW MADE. — 1. Application for an absentee ballot may be made by the applicant in person, or by mail, or for the applicant, in person, by his or her guardian or a relative within the second degree by consanguinity or affinity. The election authority [may] **shall** accept applications by facsimile transmission [at its discretion and] within the limits of its telecommunications capacity.

2. Each application shall be made to the election authority of the jurisdiction in which the person is or would be registered. Each application shall be in writing and shall state the applicant's name, address at which he or she is or would be registered, his or her reason for voting an absentee ballot and the address to which the ballot is to be mailed, if mailing is requested. Each application to vote in a primary election shall also state which ballot the applicant wishes to receive. If any application fails to designate a ballot, the election authority shall, within three working days after receiving the application, notify the applicant by mail that it will be unable to deliver an absentee ballot until the applicant designates which political party ballot he or she wishes to receive. If the applicant does not respond to the request for political party designation, the election authority is authorized to provide the voter with that part of the ballot for which no political party designation is required.

3. All applications for absentee ballots received prior to the sixth Tuesday before an election shall be stored at the office of the election authority until such time as the applications are processed in accordance with section 115.281. No application for an absentee ballot received in

the office of the election authority by mail, by facsimile transmission or by a guardian or relative after 5:00 p.m. on the Wednesday immediately prior to the election shall be accepted by any election authority. No application for an absentee ballot submitted by the applicant in person after 5:00 p.m. on the day before the election shall be accepted by any election authority, except as provided in subsections 6, 8 and 9 of this section.

4. Each application for an absentee ballot shall be signed by the applicant or, if the application is made by a guardian or relative pursuant to the provisions of this section, the application shall be signed by the guardian or relative, who shall note on the application his or her relationship to the applicant. If an applicant, guardian or relative is blind, unable to read or write the English language or physically incapable of signing the application, he or she shall sign by mark, witnessed by the signature of an election official or person of his or her own choosing. Any person who knowingly makes, delivers or mails a fraudulent absentee ballot application shall be guilty of a class one election offense.

5. Notwithstanding any law to the contrary, any resident of the state of Missouri who resides outside the boundaries of the United States or who is on active duty with the armed forces of the United States or members of their immediate family living with them may request an absentee ballot for both the primary and subsequent general election with one application.

6. An application for an absentee ballot by a new resident, as defined in section 115.275, shall be submitted in person by the applicant in the office of the election authority in the election jurisdiction in which such applicant resides. The application shall be received by the election authority no later than 7:00 p.m. on the day of the election. Such application shall be in the form of an affidavit, executed in duplicate in the presence of the election authority or any authorized officer of the election authority, and in substantially the following form:

"STATE OF

COUNTY OF, ss.

I,, do solemnly swear that:

(1) Before becoming a resident of this state, I resided at (residence address) in (town, township, village or city) of County in the state of

(2) I moved to this state after the last day to register to vote in such general presidential election and I am now residing in the county of, state of Missouri;

(3) I believe I am entitled pursuant to the laws of this state to vote in the presidential election to be held November, (year);

(4) I hereby make application for a presidential and vice presidential ballot. I have not voted and shall not vote other than by this ballot at such election.

Signed

(Applicant)

.....

(Residence Address)

Subscribed and sworn to before me this day of,

Signed

(Title and name of officer authorized to administer oaths)"

7. The election authority in whose office an application is filed pursuant to subsection 6 of this section shall immediately send a duplicate of such application to the appropriate official of the state in which the new resident applicant last resided and shall file the original of such application in its office.

8. An application for an absentee ballot by an intrastate new resident, as defined in section 115.275, shall be made in person by the applicant in the office of the election authority in the election jurisdiction in which such applicant resides. The application shall be received by the election authority no later than 7:00 p.m. on the day of the election. Such application shall be in the form of an affidavit, executed in duplicate in the presence of the election authority or an authorized officer of the election authority, and in substantially the following form:

"STATE OF

COUNTY OF, ss.

I,, do solemnly swear that:

(1) Before becoming a resident of this election jurisdiction, I resided at
(residence address) in (town, township, village or city) of county in the state
of

(2) I moved to this election jurisdiction after the last day to register to vote in such election;

(3) I believe I am entitled pursuant to the laws of this state to vote in the election to be held
..... (date);

(4) I hereby make application for an absentee ballot for candidates and issues on which I
am entitled to vote pursuant to the laws of this state. I have not voted and shall not vote other
than by this ballot at such election.

Signed

(Applicant)

.....

(Residence Address)

Subscribed and sworn to before me this day of,

Signed

(Title and name of officer authorized to administer oaths)"

9. An application for an absentee ballot by an interstate former resident, as defined in
section 115.275, shall be received in the office of the election authority where the applicant was
formerly registered by 5:00 p.m. on the Wednesday immediately prior to the election, unless the
application is made in person by the applicant in the office of the election authority, in which
case, such application shall be made no later than 7:00 p.m. on the day of the election.

**115.283. STATEMENTS OF ABSENTEE VOTERS OR PERSONS PROVIDING ASSISTANCE TO
ABSENTEE VOTERS — FORMS — NOTARY SEAL NOT REQUIRED, WHEN. —** 1. Each ballot
envelope shall bear a statement on which the voter shall state the voter's name, the voter's voting
address, the voter's mailing address and the voter's reason for voting an absentee ballot. On the
form, the voter shall also state, under penalties of perjury that the voter is qualified to vote in the
election, that the voter has not previously voted and will not vote again in the election, that the
voter has personally marked the voter's ballot in secret or supervised the marking of the voter's
ballot if the voter is unable to mark it, that the ballot has been placed in the ballot envelope and
sealed by the voter or under the voter's supervision if the voter is unable to seal it, and that all
information contained in the statement is true. In addition, any person providing assistance to
the absentee voter shall include a statement on the envelope identifying the person providing
assistance under penalties of perjury. Persons authorized to vote only for federal and statewide
officers shall also state their former Missouri residence.

2. The statement for persons voting absentee ballots who are registered voters shall be in
substantially the following form:

State of Missouri

County (City) of

I, (print name), a registered voter of County (City
of St. Louis, Kansas City), declare under the penalties of perjury that I expect to be prevented
from going to the polls on election day due to (check one):

..... absence on election day from the jurisdiction of the election authority in which I am
registered;

..... incapacity or confinement due to illness or physical disability, **including caring for a
person who is incapacitated or confined due to illness or disability;**

..... religious belief or practice;

..... employment as an election authority or by an election authority at a location other than my polling place;
 incarceration, although I have retained all the necessary qualifications for voting.

I hereby state under penalties of perjury that I am qualified to vote at this election; I have not voted and will not vote other than by this ballot at this election. I further state that I marked the enclosed ballot in secret or that I am blind, unable to read or write English, or physically incapable of marking the ballot, and the person of my choosing indicated below marked the ballot at my direction; all of the information on this statement is, to the best of my knowledge and belief, true.

.....
Signature of Voter	Signature of Person Assisting Voter (if applicable)
.....	Subscribed and sworn to
.....	before me this day
Address of Voter	of,
.....
.....
Mailing addresses (if different)	Signature of notary or other officer authorized to administer oaths

3. The statement for persons voting absentee ballots pursuant to the provisions of subsection 2, 3, 4 or 5 of section 115.277 without being registered shall be in substantially the following form:

State of Missouri
 County (City) of.....

I, (print name), declare under the penalties of perjury that I am a citizen of the United States and eighteen years of age or older. I am not adjudged incapacitated by any court of law, and if I have been convicted of a felony or of a misdemeanor connected with the right of suffrage, I have had the voting disabilities resulting from such conviction removed pursuant to law. I hereby state under penalties of perjury that I am qualified to vote at this election.

(1) I am a resident of the state of Missouri and (check one):

..... am a member of the U.S. armed forces in active service;
 am an active member of the U.S. merchant marine;
 am a civilian employee of the U.S. government working outside the United States;
 am an active member of a religious or welfare organization assisting servicemen;
 have been honorably discharged or terminated my service in one of the groups mentioned above within sixty days of this election;
 am a spouse or dependent of one of the above;
 am a registered voter in County and moved from that county to County, Missouri, after the last day to register to vote in this election.

OR (check if applicable)

(2) I am an interstate former resident of Missouri and authorized to vote for presidential and vice presidential electors. I further state under penalties of perjury that I have not voted and will not vote other than by this ballot at this election; I marked the enclosed ballot in secret or am blind, unable to read or write English, or physically incapable of marking the ballot, and the person of my choosing indicated below marked the ballot at my direction; all of the information on this statement is, to the best of my knowledge and belief, true.

Address of Last Missouri Residence

5. The statement for persons providing assistance to absentee voters shall be in substantially the following form:

The voter needed assistance in marking the ballot and signing above, because of blindness, other physical disability, or inability to read or to read English. I marked the ballot enclosed in this envelope at the voter's direction, when I was alone with the voter, and I had no other communication with the voter as to how he or she was to vote. The voter swore or affirmed the voter affidavit above and I then signed the voter's name and completed the other voter information above. Signed under the penalties of perjury.

Reason why voter needed assistance:

ASSISTING PERSON SIGN HERE

1. (signature of assisting person)
2. (assisting person's name printed)
3. (assisting person's residence)
4. (assisting person's home city or town).

6. Notwithstanding any other provision of this section, any resident of the state of Missouri who resides outside the boundaries of the United States or who is on active duty with the armed forces of the United States or members of their immediate family living with them or persons who have declared themselves to be permanently disabled pursuant to section 115.284, otherwise entitled to vote, shall not be required to obtain a notary seal or signature on his or her absentee ballot.

7. Notwithstanding any other provision of this section or section 115.291 to the contrary, the subscription, signature and seal of a notary or other officer authorized to administer oaths shall not be required on any ballot, ballot envelope, or statement required by this section if the reason for the voter voting absentee is due to [illness or physical disability] **the reasons established pursuant to subdivision (2) of subsection 1 of section 115.277.**

115.284. ABSENTEE VOTING PROCESS FOR PERMANENTLY DISABLED PERSONS ESTABLISHED — ELECTION AUTHORITY, DUTIES — APPLICATION, FORM — LIST OF QUALIFIED VOTERS ESTABLISHED. — 1. There is hereby established an absentee voting process to assist persons with permanent disabilities in the exercise of their voting rights.

2. The local election authority shall send an application to participate in the absentee voting process set out in this section to any registered voter residing within the election authority's jurisdiction upon request.

3. Upon receipt of a properly completed application, the election authority shall enter the voter's name on a list of voters qualified to participate as absentee voters pursuant to this section.

4. The application to participate in the absentee voting process shall be in substantially the following form:

State of

County (City) of

I,..... (print applicant's name), declare that I am a resident and registered voter of County, Missouri, and am permanently disabled. I hereby request that my name be placed on the election authority's list of voters qualified to participate as absentee voters pursuant to section 115.284, and that I be delivered an absentee ballot application for each election in which I am eligible to vote.

.....
Signature of Voter

.....
.....

Voter's Address

5. **Not earlier than six weeks before an election but prior to the fourth Tuesday prior to an election, [The] the election authority shall deliver to each voter qualified to participate as absentee voters pursuant to this section an absentee ballot application [for each election in which]**

if the voter is eligible to vote **in that election**. If the voter returns the absentee request application to the election authority not later than 5:00 p.m. on the Wednesday before an election and has retained the necessary qualifications to vote, the election authority shall provide the voter with an absentee ballot pursuant to this chapter.

6. The election authority shall remove from the list of voters qualified to participate as absentee voters pursuant to this section any voter who:

- (1) Asks to be removed from the list;
- (2) Dies;
- (3) Becomes disqualified from voting pursuant to the provisions of chapter 115; or
- (4) No longer resides at the address of his or her voter registration.

115.287. ABSENTEE BALLOT, HOW DELIVERED. — 1. Upon receipt of a signed application for an absentee ballot and if satisfied the applicant is entitled to vote by absentee ballot, the election authority shall, within three working days after receiving the application, or if absentee ballots are not available at the time the application is received, within five working days after they become available, deliver to the voter an absentee ballot, ballot envelope and such instructions as are necessary for the applicant to vote. Delivery shall be made to the voter personally in the office of the election authority or by bipartisan teams appointed by the election authority, or by first class, registered, or certified mail at the discretion of the election authority. Where the election authority is a county clerk, the members of bipartisan teams representing the political party other than that of county clerk shall be selected from a list of persons submitted to the county clerk by the county chairman of that party. If no list is provided by the time that absentee ballots are to be made available, the county clerk may select a person or persons from lists provided in accordance with section 115.087. If the election authority is not satisfied that any applicant is entitled to vote by absentee ballot, it shall not deliver an absentee ballot to the applicant. Within three working days of receiving such an application, the election authority shall notify the applicant and state the reason he or she is not entitled to vote by absentee ballot. The applicant may appeal the decision of the election authority to the circuit court in the manner provided in section 115.223.

2. If any voter from the jurisdiction has become hospitalized in the county in which the jurisdiction is located or in any county or in the jurisdiction of an adjoining election authority within the same county after 5:00 p.m. on the Wednesday before an election, if any voter from the jurisdiction has become confined due to illness or injury after 5:00 p.m. on the Wednesday before an election or if any voter from the jurisdiction is confined in an adult boarding facility, intermediate care facility, residential care facility, or skilled nursing facility, as defined in section 198.006, RSMo, in the jurisdiction, the election authority [may] **shall** appoint a team to deliver, witness the signing of and return the voter's application and deliver, witness the voting of and return the voter's absentee ballot; **except that, the election authority may allow a relative within the first degree of consanguinity or affinity to perform the same duties as a team for such confined voter.** In counties of the first class with a charter form of government and in cities not within a county, and in each city which has over three hundred thousand inhabitants, and is situated in more than one county, if the election authority receives ten or more applications for absentee ballots from the same address it may appoint a team to deliver and witness the voting and return of absentee ballots by voters residing at that address, except when such addresses are for an apartment building or other structure wherein individual living units are located, each of which has its own separate cooking facilities. Each team appointed under the provisions of this subsection shall consist of two registered voters, one from each major political party. Both members of any team appointed pursuant to this subsection shall be present during the delivery, signing or voting and return of any application or absentee ballot signed or voted pursuant to this subsection.

3. On the mailing and ballot envelopes for each applicant in federal service, the election authority shall stamp prominently in red the words "FEDERAL BALLOT, STATE OF MISSOURI" and "U.S. Postage Paid, 42 U.S.C., 1973 DD".

4. No information which encourages a vote for or against a candidate or issue shall be provided to any voter with an absentee ballot.

115.291. CONFIDENTIALITY OF APPLICATIONS FOR ABSENTEE BALLOTS, LIST AVAILABLE TO AUTHORIZED PERSONS FREE — CERTAIN CITIES AND COUNTIES, SPECIAL PROVISIONS, VIOLATIONS, PENALTY — FAX, TRANSMISSION MAY BE USED TO DELIVER OR RETURN BALLOT, WHEN. — 1. Upon receiving an absentee ballot, the voter shall mark [his] the ballot in secret, place the ballot in the ballot envelope, seal the envelope and fill out the statement on the ballot envelope. The affidavit of each person voting an absentee ballot shall be subscribed and sworn to before the election official receiving the ballot, a notary public or other officer authorized by law to administer oaths, unless the voter is voting absentee due to incapacity or confinement due to the provisions of section 115.284, illness or physical disability. If the voter is blind, unable to read or write the English language, or physically incapable of voting [his] the ballot, [he] the voter may be assisted by a person of [his] the voter's own choosing. Any person assisting a voter who is not entitled to such assistance, and any person who assists a voter and in any manner coerces or initiates a request or a suggestion that the voter vote for or against or refrain from voting on any question, ticket or candidate, shall be guilty of a class one election offense. If, upon counting, challenge or election contest, it is ascertained that any absentee ballot was voted with unlawful assistance, the ballot shall be rejected.

2. Each absentee ballot shall be returned to the election authority in the ballot envelope and shall only be returned by the voter in person, **or in person by a relative of the voter who is within the second degree of consanguinity or affinity**, by mail or registered carrier or by a team of deputy election authorities; **except that persons in federal service, when sent from a location determined by the secretary of state to be inaccessible on election day, shall be allowed to return their absentee ballots cast by use of facsimile transmission or under a program approved by the Department of Defense for electronic transmission of election materials.**

3. In cases of an emergency declared by the President of the United States or the governor of this state where the conduct of an election may be affected, the secretary of state may provide for the delivery and return of absentee ballots by use of a facsimile transmission device or system. Any rule promulgated pursuant to this subsection shall apply to a class or classes of voters as provided for by the secretary of state.

115.365. NOMINATING COMMITTEE DESIGNATED AS TO CERTAIN OFFICES. — 1. The nominating committee authorized to select a candidate for nomination or election to office [under the provisions of] **pursuant to** section 115.363 shall be one of the following:

(1) To select a candidate for county office, the nominating committee shall be the county committee of the party;

(2) To select a candidate for state representative, the nominating committee shall be the legislative district committee of the party;

(3) To select a candidate for state senator, the nominating committee shall be the senatorial district committee of the party;

(4) To select a candidate for circuit court judge not subject to the provisions of article V, section 25 of the state constitution, the nominating committee shall be the judicial district committee of the party;

(5) To select a candidate for representative in Congress, the nominating committee shall be the congressional district committee of the party;

(6) To select a candidate for statewide office, the nominating committee shall be the state committee of the party.

2. After any decennial redistricting, the nominating committee shall be composed from the new districts, and the new district lines shall be used in the selection of a candidate; **provided, however, that members of nominating committees for candidates for special elections to fill vacancies conducted pursuant to section 21.130, RSMo, shall be from the old districts.**

115.367. CHANGE OF DISTRICT BOUNDARIES, EFFECT ON NOMINATING COMMITTEE. —

1. In the event that the boundaries of a district have been altered, or a new district established for a candidate to be selected by a party committee since the last election in which a party candidate ran for such office, the members of the nominating committee shall be the members of the various nominating committees for that office, as provided in section 115.365 who reside within the altered or new district; **provided, however, that members of nominating committees for candidates for special elections to fill vacancies conducted pursuant to section 21.130, RSMo, shall be from the old districts.** The chairman of the nominating committee shall be the committee chairman of the county which polled the highest vote for the party candidate for governor within the area to be represented at the last gubernatorial election.

2. In the event that a candidate is to be selected by a party committee of a new political party which has not yet elected committeemen and committeewomen in the manner provided by law, the chairman of the nominating committee shall be the provisional chairman of the party for the state, or if the political party is formed for a district or political subdivision less than the state, the chairman of the nominating committee shall be the provisional chairman of the party for such district or political subdivision. The chairman of the nominating committee shall appoint additional members of the nominating committee, not less than four in number.

3. In the event that a candidate is to be selected for nomination or election to an office by a new political party which has elected committeemen and committeewomen in the manner provided for established political parties, the members of the nominating committee shall be the same as provided in section 115.365.

115.409. WHO MAY BE ADMITTED TO POLLING PLACE. — Except election authority personnel, election judges, watchers and challengers appointed pursuant to section 115.105 or 115.107, law enforcement officials at the request of election officials or in the line of duty, minor children under the age of eighteen accompanying an adult who is in the process of voting, **international observers who have registered as such with the election authority**, persons designated by the election authority to administer a simulated youth election for persons ineligible to vote because of their age, members of the news media who present identification satisfactory to the election judges and who are present only for the purpose of bona fide news coverage except as provided in subdivision (18) of section 115.637, provided that such coverage does not disclose how any voter cast [his] **the voter's** ballot on any question or candidate or in the case of a primary election on which party ballot they voted or does not interfere with the general conduct of the election as determined by the election judges or election authority, and registered voters who are eligible to vote at the polling place, no person shall be admitted to a polling place.

115.417. VOTER INSTRUCTION CARDS TO BE DELIVERED TO POLLS — INSTRUCTIONS TO BE POSTED, HOW. — 1. Before the time fixed by law for the opening of the polls, the election authority shall deliver to each polling place a sufficient number of voter instruction cards which include the following information:

(1) If paper ballots or an electronic voting system is used, the instructions shall inform the voter on how to obtain a ballot for voting, how to vote and prepare the ballot for deposit in the ballot box and how to obtain a new ballot to replace one accidentally spoiled;

(2) If voting machines are used, the instructions shall inform the voter how to operate the machine in such a manner that [he] **the voter** may vote as [he] **the voter** wishes.

2. The election authority at each polling place shall post in a conspicuous place voting instructions on a poster no smaller than twenty-four inches by thirty inches. Such

instructions shall also inform the voter that the voting equipment can be demonstrated upon request of the voter.

[2.] 3. If marking devices or voting machines are used, the election authority shall also provide to each polling place a model of a marking device or portion of the face of a voting machine. If requested to do so by a voter, the election judges shall give instructions on operation of the marking device or voting machine by use of the model.

4. The secretary of state may develop multi-lingual voting instructions to be made available to election authorities.

115.419. SAMPLE BALLOTS, CARDS OR BALLOT LABELS TO BE DELIVERED TO THE POLLS, WHEN. — Before the time fixed by law for the opening of the polls, the election authority shall deliver to each polling place a sufficient number of sample ballots, ballot cards or ballot labels which shall be a different color but otherwise exact copies of the official ballot. The samples shall be printed in the form of a diagram, showing the form of the ballot or the front of the marking device or voting machine as it will appear on election day. The secretary of state may develop multi-lingual sample ballots to be made available to election authorities.

115.420. BUTTERFLY BALLOT PROHIBITED, EXCEPTIONS. — 1. An election authority operating a voting system that uses ballot cards shall not use a butterfly ballot unless the secretary of state provides written approval to the election authority for the use of a butterfly ballot in the particular election.

2. For purposes of this section, "butterfly ballot" means a ballot where two ballot pages are used side by side and where voters must vote on candidates or issues on both sides of the pages.

3. The secretary of state may approve the use of a butterfly ballot in a particular election when a large number of candidates and issues are to be decided, no alternative ballot is reasonable under the circumstances, and the election authority submits to the secretary of state a written explanation of the need for using a butterfly ballot. The secretary of state shall respond to such written request within two business days.

115.427. VOTER TO PRESENT FORM OF PERSONAL — RULEMAKING AUTHORITY — IDENTIFICATION MARK IN LIEU OF SIGNATURE PERMITTED, WHEN. — 1. [In counties using binders as precinct registers.] Before receiving a ballot, [each voter] voters shall identify [himself] themselves by presenting a form of personal identification from the following list:

(1) Identification issued by the state of Missouri, an agency of the state, or a local election authority of the state;

(2) Identification issued by the United States government or agency thereof;

(3) Identification issued by an institution of higher education, including a university, college, vocational and technical school, located within the state of Missouri;

(4) A copy of a current utility bill, bank statement, government check, paycheck or other government document that contains the name and address of the voter;

(5) Driver's license or state identification card issued by another state; or

(6) Other identification approved by the secretary of state under rules promulgated pursuant to subsection 3 of this section other identification approved by federal law. Personal knowledge of the voter by two supervising election judges, one from each major political party, shall be acceptable voter identification upon the completion of a secretary of state-approved affidavit that is signed by both supervisory election judges and the voter that attests to the personal knowledge of the voter by the two supervisory election judges. The secretary of state may provide by rule for a sample affidavit to be used for such purpose. [and write his address and sign his name on a certificate furnished to the election judges by the election authority. Each certificate shall be in substantially the following form:

VOTER'S IDENTIFICATION CERTIFICATE

Warning: It is against the law for anyone to vote, or attempt to vote, without having a lawful right to vote.

PRECINCT WARD OR TOWNSHIP

GENERAL (SPECIAL, PRIMARY) ELECTION

Held, 20....

Date

I hereby certify that I am qualified to vote at this election.

.....

Sign Name

(Do Not Print)

.....

Initials of two judges from
different political parties]

.....

Address

2. [In counties using computer printouts as the precinct register, before receiving a ballot, each voter shall present his voter identification card as provided in section 115.163.] The [computer printout] **precinct register** shall serve as the voter identification certificate. The following form shall be printed at the top of each page of the [computer printout] **precinct register**:

VOTER'S IDENTIFICATION CERTIFICATE

Warning: It is against the law for anyone to vote, or attempt to vote, without having a lawful right to vote.

PRECINCT

WARD OR TOWNSHIP

GENERAL (SPECIAL, PRIMARY) ELECTION

Held, 20....

Date

I hereby certify that I am qualified to vote at this election **by signing my name and verifying my address by signing my initials next to my address.** [The voter shall sign his name and verify his address by his initials.]

3. The secretary of state shall promulgate rules to effectuate the provisions of this section.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

[3.] 5. If any voter is unable to sign his name at the appropriate place on the certificate or computer printout, an election judge shall print the name and address of the voter in the appropriate place on the [certificate or printout] **precinct register**, the voter shall make his mark in lieu of signature, and the voter's mark shall be witnessed by the signature of an election judge.

[4. In counties using binders as the precinct register, two election judges, one from each major political party, shall compare the signature on the identification certificate with the signature on the precinct register.

5. In counties using printouts as the precinct register, two election judges, one from each major political party, shall compare the signature on the voter identification card with the signature on the computer printout. If the voter does not have his voter identification card, the judges shall require identification acceptable to the election authority. Personal knowledge of the voter by two election judges, one from each major political party, shall be acceptable identification to the election authority.]

115.429. PERSON NOT ALLOWED TO VOTE — APPEAL, HOW TAKEN — VOTER MAY BE REQUIRED TO SIGN AFFIDAVIT, WHEN — FALSE AFFIDAVIT A CLASS ONE OFFENSE. — 1. The election judges shall not permit any person to vote unless satisfied that such person is the person whose name appears on the precinct register.

2. The identity or qualifications of any person offering to vote may be challenged by any election authority personnel, any registered voter, or any duly authorized challenger at the polling place. No person whose right to vote is challenged shall receive a ballot until his identity and qualifications have been established.

3. Any question of doubt concerning the identity or qualifications of a voter shall be decided by a majority of the judges **from the major political parties**. If [the] **such** election judges decide not to permit a person to vote because of doubt as to his identity or qualifications, the person may apply to the election authority or to the circuit court as provided in sections 115.193 and 115.223.

4. If the election judges cannot reach a decision on the identity or qualifications of any person, the question shall be decided by the election authority, subject to appeal to the circuit court as provided in section 115.223.

5. The election judges or the election authority may require any person whose right to vote is challenged to execute an affidavit affirming his qualifications. The election authority shall furnish to the election judges a sufficient number of blank affidavits of qualification, and the election judges shall enter any appropriate information or comments under the title "Remarks" which shall appear at the bottom of the affidavit. All executed affidavits of qualification shall be returned to the election authority with the other election supplies. Any person who makes a false affidavit of qualification shall be guilty of a class one election offense.

115.433. JUDGES TO INITIAL PAPER BALLOTS OR BALLOT CARDS, WHEN. — After the voter's identification certificate has been initialed, two judges of different political parties, **or one judge from a major political party and one judge with no political affiliation**, shall, where paper ballots or ballot cards are used, initial the voter's ballot or ballot card.

115.439. PROCEDURE FOR VOTING PAPER BALLOT — RULEMAKING AUTHORITY. — 1. If paper ballots or ballot cards are used, the voter shall, immediately upon receiving his ballot, go alone to a voting booth and vote his ballot in the following manner:

(1) If the voter desires to vote a straight party ticket, he may place a cross (X) mark in the circle directly below the party name at the head of the column, or he may place cross (X) marks in the squares directly to the left of the names of candidates on one party ticket;

(2) If the voter desires to vote a split party ticket, he may place a cross (X) mark in the circle directly below one party name at the head of the column and cross (X) marks in the squares directly to the left of the names of candidates on other party tickets, or he may place cross (X) marks in the squares directly to the left of the names of candidates on different party tickets;

(3) If the voter desires to vote for a person whose name does not appear on the ballot, he may cross out a name which appears on the ballot for the office and write the name of the person for whom he wishes to vote above or below the crossed-out name and place a cross (X) mark in the square directly to the left of the crossed-out name. If a write-in line appears on the ballot, he may write the name of the person for whom he wishes to vote on the line and place a cross (X) mark in the square directly to the left of the name;

(4) If the ballot does not contain any party designations, the voter shall place a cross (X) mark in the squares directly to the left of the names of the candidates for whom he desires to vote;

(5) If the ballot is one which contains no candidates, the voter shall place a cross (X) mark in the square directly to the left of each "yes" or "no" he desires to vote. No voter shall vote for the same person more than once for the same office at the same election.

2. For purposes of this section, a punch or sensor mark or any other mark clearly indicating that the voter intends to mark that particular square shall be equivalent to a cross (X) mark.

3. If voting machines are used, the voter shall, immediately upon direction by the judges, go alone to a voting machine, close the curtain and vote in substantially the same manner provided in subsection 1 of this section. Rather than placing cross (X) marks on the ballot, however, the voter shall cause the designations to appear on the face of the voting machine, cast any write-in votes and register his votes as directed in the instructions for use of the machine.

4. If the voter accidentally spoils his ballot or ballot card or makes an error, he may return it to an election judge and receive another. The election judge shall mark "SPOILED" across the ballot or ballot card and place it in an envelope marked "SPOILED BALLOTS". After another ballot has been prepared in the manner provided in section 115.433, the ballot shall be given to the voter for voting.

5. [If any] **The election authority may authorize the use of a sticker or other item containing a write-in candidate's name, in lieu of a handwritten name[, is present on the ballot,]. All such stickers and items used by election authorities shall conform to rules and regulations promulgated by the secretary of state regarding the form of such stickers and items. The secretary of state shall promulgate rules and regulations to prescribe uniform specifications for the form of such stickers and items. If authorized,** such sticker or item shall contain a cross (X) mark, or other mark as described in subsection 2 of this section, in the square directly left of the candidate's name and the office for which the candidate is a write-in candidate. A write-in vote that does not meet the requirements of this subsection which appears on a ballot shall not be counted [under] **pursuant to** sections 115.447 to 115.525. In those jurisdictions using an electronic voting system which utilizes mark sense or optical scan technology **and if the election authority authorizes the use of stickers for write-ins,** such system shall be programmed to identify and separate those ballots which contain an office in which write-in candidates are eligible to receive votes, and which contain less votes than a voter is entitled to cast. In addition, such sticker shall be considered "printed matter" as defined in subsection 8 of section 130.031, RSMo, and as such shall contain the designation required by subsection 8 of section 130.031, RSMo.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.453. PROCEDURE FOR COUNTING VOTES FOR CANDIDATES. — Election judges shall count votes for all candidates in the following manner:

(1) If a cross (X) mark appears in the circle immediately below a party name at the head of a column, each candidate of the party shall be counted as voted for. If a cross (X) mark appears in the circle immediately below more than one party name, no candidate shall be counted as voted for, except a candidate before whose name a cross (X) mark appears in the square preceding the name and a cross (X) mark does not appear in the square preceding the name of any candidate for the same office in another column. If a cross (X) mark appears in the

circle immediately below a party name at the head of a column, and a cross (X) mark appears in the square next to the name of any candidate in another column, each candidate of the party whose circle is marked shall be counted as voted for, except where a cross (X) mark appears in the square preceding the name of any candidate in another column. Except as provided in this subdivision and subdivision (2) of this section, each candidate with a cross (X) mark in the square preceding his or her name shall be counted as voted for.

(2) If no cross (X) mark appears in the circle immediately below any party name, but a cross (X) mark does appear in the square next to any candidate's name, the name of each candidate next to which a cross (X) mark appears shall be counted as voted for, and no other name shall be counted as voted for. If cross (X) marks appear next to the names of more candidates for an office than are entitled to fill the office, no candidate for the office shall be counted as voted for. If more than one candidate is to be nominated or elected to an office, and any voter has voted for the same candidate more than once for the same office at the same election, no votes cast by the voter for the candidate shall be counted.

(3) No vote shall be counted for any candidate that is not marked substantially in accordance with the provisions of this section. The judges shall count votes marked substantially in accordance with this section when the intent of the voter seems clear. **Regulations promulgated by the secretary of state shall be used by the judges to determine voter intent.** No ballot containing any proper votes shall be rejected for containing fewer marks than are authorized by law.

(4) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate for election to office with the proper election authority, who shall then notify the proper filing officer of the write-in candidate prior to 5:00 p.m. on the second Friday immediately preceding the election day; except that, write-in votes shall be counted only for candidates for election to state or federal office who have filed a declaration of intent to be a write-in candidate for election to state or federal office with the secretary of state pursuant to section 115.353 prior to 5:00 p.m. on the second Friday immediately preceding the election day. No person who filed as a party or independent candidate for nomination or election to an office may, without withdrawing as provided by law, file as a write-in candidate for election to the same office for the same term. No candidate who files for nomination to an office and is not nominated at a primary election may file a declaration of intent to be a write-in candidate for the same office at the general election. When declarations are properly filed with the secretary of state, the secretary of state shall promptly transmit copies of all such declarations to the proper election authorities for further action pursuant to this section. The election authority shall furnish a list to the election judges and counting teams prior to election day of all write-in candidates who have filed such declaration. This subdivision shall not apply to elections wherein candidates are being elected to an office for which no candidate has filed.

(5) Write-in votes shall be cast and counted for a candidate without party designation. Write-in votes for a person cast with a party designation shall not be counted. Except for candidates for political party committees, no candidate shall be elected as a write-in candidate unless such candidate receives a separate plurality of the votes without party designation regardless of whether or not the total write-in votes for such candidate under all party and without party designations totals a majority of the votes cast.

(6) When submitted to the election authority, each declaration of intent to be a write-in candidate for the office of United States president shall include the name of a candidate for vice president and the name of nominees for presidential elector equal to the number to which the state is entitled. At least one qualified resident of each congressional district shall be nominated as presidential elector. Each such declaration of intent to be a write-in candidate shall be accompanied by a declaration of candidacy for each presidential elector in substantially the form set forth in subsection 3 of section 115.399. Each declaration of candidacy for the office of presidential elector shall be subscribed and sworn to by the candidate before the election official

receiving the declaration of intent to be a write-in, notary public or other officer authorized by law to administer oaths.

115.493. BALLOTS AND RECORDS TO BE KEPT ONE YEAR, MAY BE INSPECTED, WHEN.

— The election authority shall keep all voted ballots, ballot cards, **processed ballot materials in electronic form** and write-in forms, and all applications, statements, certificates, affidavits and computer programs relating to each election for twelve months after the date of the election. During the time that voted ballots, ballot cards, **processed ballot materials in electronic form** and write-in forms are kept by the election authority, it shall not open or inspect them or allow anyone else to do so, except upon order of a legislative body trying an election contest, a court or a grand jury. After twelve months, the ballots, ballot cards, **processed ballot materials in electronic form**, write-in forms, applications, statements, certificates, affidavits and computer programs relating to each election may be destroyed. If an election contest, grand jury investigation or civil or criminal case relating to the election is pending at the time, however, the materials shall not be destroyed until the contest, investigation or case is finally determined.

115.507. ANNOUNCEMENT OF RESULTS BY VERIFICATION BOARD, CONTENTS, WHEN DUE — ABSTRACT OF VOTES TO BE OFFICIAL RETURNS. — 1. Not later than the second Tuesday after the election, the verification board shall issue a statement announcing the results of each election held within its jurisdiction and shall certify the returns to each political subdivision and special district submitting a candidate or question at the election. The statement shall include a categorization of the number of regular and absentee votes cast in the election, and how those votes were cast; provided however, that absentee votes shall not be reported separately where such reporting would disclose how any single voter cast his or her vote. When absentee votes are not reported separately the statement shall include the reason why such reporting did not occur. Nothing in this section shall be construed to require the election authority to tabulate absentee ballots by precinct on election night.

2. The verification board shall prepare the returns by drawing an abstract of the votes cast for each candidate and on each question submitted to a vote of people in its jurisdiction by the state and by each political subdivision and special district at the election. The abstract of votes drawn by the verification board shall be the official returns of the election.

3. **Any home rule city with more than four hundred thousand inhabitants and located in more than one county may by ordinance designate one of the election authorities situated partially or wholly within that home rule city to be the verification board that shall certify the returns of such city submitting a candidate or question at any election and shall notify each verification board within the city of that designation by providing each with a copy of such duly adopted ordinance. Not later than the second Tuesday after any election in any city making such a designation, each verification board within the city shall certify the returns of such city submitting a candidate or question at the election to the election authority so designated by the city to be its verification board, and such election authority shall announce the results of the election and certify the cumulative returns to the city in conformance with subsections 1 and 2 of this section not later than ten days thereafter.**

4. Not later than the second Tuesday after each election at which the name of a candidate for nomination or election to the office of president of the United States, United States senator, representative in Congress, governor, lieutenant governor, state senator, state representative, judge of the circuit court, secretary of state, attorney general, state treasurer, or state auditor, or at which an initiative, referendum, constitutional amendment or question of retaining a judge subject to the provisions of article V, section 29 of the state constitution, appears on the ballot in a jurisdiction, the election authority of the jurisdiction shall mail or deliver to the secretary of state the abstract of the votes given in its jurisdiction, by polling place or precinct, for each such office and on each such question. If mailed, the abstract shall be enclosed in a strong, sealed

envelope or envelopes. On the outside of each envelope shall be printed: "Returns of election held in the county of (City of St. Louis, Kansas City) on the day of,, ", etc.

115.607. COUNTY COMMITTEE, SELECTION OF. — 1. No person shall be elected or shall serve as a member of a county committee who is not, for one year next before [his] **the person's** election, both a registered voter of and a resident of the county and the committee district from which [he] **the person** is elected if such district shall have been so long established, and if not, then of the district or districts from which the same shall have been taken. Except as provided in subsections 2, 3, 4, 5, and 6 of this section, the membership of a county committee of each established political party shall consist of a man and a woman elected from each township or ward in the county.

2. In each county of the first [class] **classification** containing the major portion of a city which has over three hundred thousand inhabitants, two members of the committee, a man and a woman, shall be elected from each ward in the city. Any township entirely contained in the city shall have no additional representation on the county committee. The election authority for the county shall, **not later than six months after the decennial census has been reported to the President of the United States**, divide the most populous township outside the city into eight subdistricts of contiguous and compact territory and as nearly equal in population as practicable. The subdistricts shall be numbered from one upward consecutively, which numbers shall, insofar as practicable, be retained upon reapportionment. Two members of the county committee, a man and a woman, shall be elected from each such subdistrict. Four members of the committee, two men and two women, shall be elected from each other township outside the city.

3. In any city which has over three hundred thousand inhabitants, the major portion of which is located in a county [of the first class] with a charter form of government, for the portion of the city located within such county and notwithstanding [the provisions of] section 82.110, RSMo, it shall be the duty of the election authority, **not later than six months after the decennial census has been reported to the President of the United States**, to divide such cities into not less than twenty-four nor more than twenty-five wards after each decennial census. Wards shall be so divided that the number of inhabitants in any ward shall not exceed any other ward of the city and within the same county, by more than five percent, measured by the number of the inhabitants determined at the preceding decennial census. [Changes of ward or precinct lines shall not affect the terms of office of incumbent party committeemen or committeewomen elected from districts as constituted at the time of their election.]

4. In each county of the first [class] **classification** containing a portion, but not the major portion, of a city which has over three hundred thousand inhabitants, ten members of the committee, five men and five women, shall be elected from the district of each state representative wholly contained in the county in the following manner: **Within six months** after each legislative reapportionment, the election authority shall divide each legislative district wholly contained in the county into five committee districts of contiguous territory as compact and as nearly equal in population as may be; two members of the committee, a man and a woman, shall be elected from each committee district. The election authority shall divide the area of the county located within legislative districts not wholly contained in the county into similar committee districts; two members of the committee, a man and a woman, shall be elected from each committee district.

5. In each city not situated in a county, two members of the committee, a man and a woman, shall be elected from each ward.

6. In all [first class] counties with a charter form of government and a population of over nine hundred thousand inhabitants, the county committee persons shall be elected from each township. **Within ninety days after August 28, 2002, and within six months after each decennial census has been reported to the President of the United States, the election**

authority shall divide the county into twenty-eight compact and contiguous townships containing populations as nearly equal in population to each other as is practical.

7. If any election authority has failed to adopt a reapportionment plan by the deadline set forth in this section, the county commission, sitting as a reapportionment commission, shall within sixty days after the deadline, adopt a reapportionment plan. Changes of township, ward, or precinct lines shall not affect the terms of office of incumbent party committee members elected from districts as constituted at the time of their election.

115.613. COMMITTEEMAN AND COMMITTEEWOMAN, HOW SELECTED — TIE VOTE, EFFECT OF — IF NO PERSON ELECTED A VACANCY CREATED — SINGLE CANDIDATE, EFFECT OF. — 1. Except as provided in subsection 4 of this section, the qualified man and woman receiving the highest number of votes from each committee district for committeeman and committeewoman of a party shall be members of the county committee of the party.

2. If two or more qualified persons receive an equal number of votes for county committeeman or committeewoman of a party and a higher number of votes than any other qualified person from the party, a vacancy shall exist on the county committee which shall be filled by a majority of the committee in the manner provided in section 115.617.

3. If no qualified person is elected county committeeman or committeewoman from a committee district for a party, a vacancy shall exist on the county committee which shall be filled by a majority of the committee in the manner provided in section 115.617.

4. The provisions of this subsection shall apply only in any county where no filing fee is required for filing a declaration of candidacy for committeeman or committeewoman in a committee district. **If only one qualified candidate has filed a declaration of candidacy for committeeman or committeewoman in a committee district for a party prior to the deadline established by law, no election shall be held for committeeman or committeewoman in the committee district for that party and the election authority shall certify the qualified candidate in the same manner and at the same time as candidates elected pursuant to subsection 1 of this section are certified.** If no qualified candidate files for committeeman or committeewoman in a committee district for a party, no election shall be held and a vacancy shall exist on the county committee which shall be filled by a majority of the committee in the manner provided in section 115.617. [The state shall pay the cost of producing ballots for any election held for the purposes of this subsection. The election authority shall pay all public notice costs for any election held pursuant to this subsection.]

115.755. PRESIDENTIAL PRIMARY, WHEN HELD. — A statewide presidential preference primary shall be held on the first Tuesday after the first Monday in [March] February of each presidential election year.

115.801. YOUTH VOTING PROGRAMS, GRANT PROGRAM TO BE ADMINISTERED. — Subject to appropriation from federal funds, the secretary of state shall administer a grant program annually for the purpose of involving youth in youth voting programs. The secretary of state may promulgate rules to effectuate the provisions of this section.

115.803. FEDERAL ELECTIONS, GRANT PROGRAM TO IMPROVE ELECTION PROCESS. — The secretary of state shall administer a grant program for the purpose of allowing election authorities to receive grants from the federal government for the purpose of improving the election process in federal elections. The secretary of state may promulgate rules to effectuate the provisions of this section.

115.806. RULEMAKING AUTHORITY. — Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections

115.801 and 115.803 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

SECTION 1. PROVISIONAL BALLOTS, USED WHEN, EXCEPTIONS, PROCEDURE — RULEMAKING AUTHORITY. — 1. The provisions of this section shall apply to primary and general elections where candidates for federal or statewide offices are nominated or elected and any election where statewide issue or issues are submitted to the voters.

2. A voter claiming to be properly registered in the jurisdiction of the election authority and eligible to vote in an election, but whose eligibility cannot be immediately established upon examination of the precinct register or upon examination of the records on file with the election authority, shall be entitled to vote a provisional ballot after providing a form of personal identification required pursuant to section 115.427, RSMo. The provisional ballot contained in this section shall contain the statewide candidates and issues, and federal candidates. The congressional district on the provisional ballot shall be for the address contained on the affidavit provided for in this section.

3. Once voted, the provisional ballot shall be placed and sealed in a provisional ballot envelope. The provisional ballot in its envelope shall be deposited in the ballot box. The provisional ballot envelope shall be completed by the voter for use in determining eligibility. The provisional ballot envelope specified in this section shall contain a voter's certificate which shall be in substantially the following form:

STATE OF

COUNTY OF

I do solemnly swear (or affirm) that my name is; that my date of birth is; that the last four digits of my Social Security Number are; that I am registered to vote in County or City (if a City not within a County), Missouri; that I am a qualified voter of said County (or City not within a County); that I am eligible to vote at this polling place; and that I have not voted in this election.

I understand that if the above-provided information is not correct and the election authority determines that I am not registered and eligible to vote, my vote will not be counted. I further understand that knowingly providing false information is a violation of law and subjects me to possible criminal prosecution.

.....
(Signature of Voter)

.....
(Current Address)

Subscribed and affirmed before me this day of, 20....

.....
(Signature of Election Official)

The voter may provide additional information to further assist the election authority in determining eligibility, including the place and date the voter registered to vote, if known.

4. Prior to certification of the election, the election authority shall determine if the voter is registered and entitled to vote and if the vote was properly cast. The provisional ballot shall be counted only if the election authority determines that the voter is registered and entitled to vote. If the voter is not registered but is qualified to register for future elections, the affidavit shall be considered a mail application to register to vote under the provisions of this chapter.

5. In counties where the voting system does not utilize a paper ballot, the election authority shall provide the appropriate provisional ballots to each polling place.

6. The secretary of state may promulgate rules for purposes of ensuring the uniform application of this section.

7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

8. The secretary of state shall design and provide to the election authorities the envelopes and forms necessary to carry out the provisions of this section.

[115.083. ADDITIONAL JUDGES AUTHORIZED, EVEN NUMBER AND BIPARTISAN REQUIRED.] — Any election authority may appoint an even number of additional judges for use as needed on election day. One-half of such judges shall be members of one major political party, and one-half of such judges shall be members of the other major political party.]

[115.122. ANY COUNTY, CITY, TOWN OR VILLAGE MAY HOLD AN ELECTION ON AUGUST 5, 1997.] — The provisions of section 115.123, to the contrary notwithstanding, any county, city, town or village may hold an election on the first Tuesday after the first Monday in August, 1997.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure the efficient operation of elections in this state, the repeal and reenactment of section 115.613 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 115.613 of this act shall be in full force and effect upon its passage and approval, or July 1, 2002, whichever later occurs.

Approved June 21, 2002

SB 695 [HCS SB 695]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Expands the Children's Trust Fund Board from seventeen to twenty-one members.

AN ACT to repeal section 210.170, RSMo, and to enact in lieu thereof one new section relating to the children's trust fund board.

SECTION

A. Enacting clause.

210.170. Children's trust fund board created — members, appointment — qualifications — terms — vacancies — removal procedure — staff — expenses — office of administration, duties.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 210.170, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.170, to read as follows:

210.170. CHILDREN'S TRUST FUND BOARD CREATED — MEMBERS, APPOINTMENT — QUALIFICATIONS — TERMS — VACANCIES — REMOVAL PROCEDURE — STAFF — EXPENSES — OFFICE OF ADMINISTRATION, DUTIES. — 1. There is hereby created within the office of administration of the state of Missouri the "Children's Trust Fund Board", which shall be composed of [seventeen] **twenty-one** members as follows:

(1) Twelve public members to be appointed by the governor by and with the advice and consent of the senate. As a group, the public members appointed [under] **pursuant to** this subdivision shall demonstrate knowledge in the area of prevention programs, shall be representative of the demographic composition of this state, and, to the extent practicable, shall be representative of all of the following categories:

- (a) Organized labor;
- (b) The business community;
- (c) The educational community;
- (d) The religious community;
- (e) The legal community;
- (f) Professional providers of prevention services to families and children;
- (g) Volunteers in prevention services;
- (h) Social services;
- (i) Health care services; and
- (j) Mental health services;

(2) A physician licensed pursuant to chapter 334, RSMo;

(3) Two members of the Missouri house of representatives, who shall be appointed by the speaker of the house of representatives and shall be members of two different political parties; [and]

(4) Two members of the Missouri senate, who shall be appointed by the president pro tem of the senate and who shall be members of two different political parties; **and**

(5) Four members chosen and appointed by the governor.

2. All members of the board appointed by the speaker of the house or the president pro tem of the senate shall serve until their term in the house or senate during which they were appointed to the board expires. All public members of the board shall serve for terms of three years; except, that of the public members first appointed, four shall serve for terms of three years, four shall serve for terms of two years, and three shall serve for terms of one year. No public members may serve more than two consecutive terms, regardless of whether such terms were full or partial terms. Each member shall serve until his successor is appointed. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner in which the board membership which is vacant was originally filled.

3. Any public member of the board may be removed by the governor for misconduct, incompetency, or neglect of duty after first being given the opportunity to be heard in his or her own behalf.

4. The board may employ an executive director who shall be charged with carrying out the duties and responsibilities assigned to him **or her** by the board. The executive director may obtain all necessary office space, facilities, and equipment, and may hire and set the compensation of such staff as is approved by the board and within the limitations of appropriations for the purpose. All staff members, except the executive director, shall be employed pursuant to chapter 36, RSMo.

5. Each member of the board [shall] **may** be reimbursed for all actual and necessary expenses incurred by [him] **the member** in the performance of his **or her** official duties. All reimbursements made [under] **pursuant to** this subsection shall be made from funds in the children's trust fund appropriated for that purpose.

6. All business transactions of the board shall be conducted in public meetings in accordance with sections 610.010 to 610.030, RSMo.

7. The board may accept federal funds for the purposes of sections 210.170 to 210.174, as well as gifts and donations from individuals, private organizations, and foundations. The acceptance and use of federal funds shall not commit any state funds nor place any obligation upon the general assembly to continue the programs or activities for which the federal funds are made available. All funds received in the manner described in this subsection shall be transmitted to the state treasurer for deposit in the state treasury to the credit of the children's trust fund.

8. The board shall elect a chairperson from among the public members, who shall serve for a term of two years. The board may elect such other officers and establish such committees as it deems appropriate.

9. The board shall exercise its powers and duties independently of the office of administration except that budgetary, procurement, accounting, and other related management functions shall be performed by the office of administration.

Approved July 2, 2002

SB 701 [SB 701]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies law to reflect the fact the Federal Aviation Administration issues airmen certificates.

AN ACT to repeal sections 305.120, 305.130 and 305.140, RSMo, relating to the operation of aircraft, and to enact in lieu thereof three new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 305.120. Definitions.
- 305.130. Unlawful to operate without an airman certificate and certificate of airworthiness.
- 305.140. Airman certificate to be kept in personal possession.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 305.120, 305.130 and 305.140, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 305.120, 305.130 and 305.140, to read as follows:

305.120. DEFINITIONS. — As used in sections 305.120 to 305.270, the following terms mean:

(1) "Aeronautics" includes the art and science of flight; aviation; the construction, operation, navigation of aircraft and all component parts thereof; air navigation aids, such as markings, lighting, electric and electronic devices that transmit or receive visual, audible or electronic signals, sounds or displays; navigation and piloting; and also includes airports and the planning, design, construction, repair, improvement, or maintenance thereto or any part thereof; and the dissemination of information and instruction pertaining to all of the foregoing;

(2) "Aircraft", any device now known or hereafter invented, used or designed for navigation of or flight through the air;

(3) "Airman", a person, including the person in command of an aircraft or a pilot, mechanic, or member of the crew, who engages in the navigation of an aircraft while under way;

(4) "Airman certificate", a certificate issued to an airman pursuant to 49 U.S.C. 44702;

[(3)] (5) "Airport", an area on land or water that is used or intended to be used for the landing and takeoff of aircraft including buildings, equipment, facilities, rights-of-way, property and appurtenant areas;

[(4)] (6) "Airport authority", an entity established in accordance with state law which may plan for, acquire, construct, operate, and maintain an airport or airports as a political subdivision within this state;

[(5)] (7) "Pilot", any person licensed to operate aircraft;

[(6)] (8) "Political subdivision", any county, city, town, village or other political entity having the authority to tax and to exercise the power of eminent domain;

[(7)] (9) "Runway", a defined rectangular area on a land airport prepared specifically for the landing and takeoff of aircraft.

305.130. UNLAWFUL TO OPERATE WITHOUT AN AIRMAN CERTIFICATE AND CERTIFICATE OF AIRWORTHINESS. — It shall be unlawful for any person to operate any aircraft within this state in carrying a passenger or passengers, or any property, or in the prosecution of a business or commercial enterprise, or for instruction in the art of flying, without a [pilot's license] **airman certificate** for such purposes issued by the [Department of Commerce of the United States] **Federal Aviation Administration**, and without a valid certificate of airworthiness for such aircraft issued by [said Department of Commerce] **the Federal Aviation Administration**.

305.140. AIRMAN CERTIFICATE TO BE KEPT IN PERSONAL POSSESSION. — The [pilot's license] **airman certificate** and certificate of airworthiness required by sections 305.120 to 305.160 shall be kept in the personal possession of the licensee when operating aircraft within this state, and must be presented for inspection upon the demand of any passenger, or any peace officer, or any official, manager or person in charge of any airport, or landing field in this state upon which he shall land.

Approved June 13, 2002

SB 708 [SB 708]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises membership of Clean Water Commission.

AN ACT to repeal section 644.021, RSMo, relating to the clean water commission, and to enact in lieu thereof one new section relating to the same subject.

SECTION

- A. Enacting clause.
644.021. Commission created, members, qualifications, term — meetings.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 644.021, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 644.021, to read as follows:

644.021. COMMISSION CREATED, MEMBERS, QUALIFICATIONS, TERM — MEETINGS. —

1. There is hereby created a water contaminant control agency to be known as the "Clean Water Commission of the State of Missouri", whose domicile for the purposes of sections 644.006 to 644.141 shall be deemed to be that of the department of natural resources. The commission shall consist of [six] **seven** members appointed by the governor with the advice and consent of the senate. No more than three of the members shall belong to the same political party. All members shall be representative of the general interest of the public and shall have an interest in and knowledge of conservation and the effects and control of water contaminants. Two such members, but no more than two, shall be knowledgeable concerning the needs of agriculture, industry or mining and interested in protecting these needs in a manner consistent with the purposes of sections 644.006 to 644.141. **One such member shall be knowledgeable concerning the needs of publicly owned wastewater treatment works. Four members shall represent the public.** No member shall receive, or have received during the previous two years, a significant portion of his or her income directly or indirectly from permit holders or applicants for a permit pursuant to any federal water pollution control act as amended and as applicable to this state. **All members appointed on or after August 28, 2002 shall have demonstrated an interest and knowledge about water quality. All members appointed on or after August 28, 2002 shall be qualified by interest, education, training or experience to provide, assess and evaluate scientific and technical information concerning water quality, financial requirements and the effects of the promulgation of standards, rules and regulations.** At the first meeting of the commission and at yearly intervals thereafter, the members shall select from among themselves a chairman and a vice chairman.

2. The members' terms of office shall be four years and until their successors are selected and qualified. Provided, however, that the first three members appointed shall serve a term of two years, the next three members appointed shall serve a term of four years, thereafter all members appointed shall serve a term of four years. There is no limitation on the number of terms any appointed member may serve. If a vacancy occurs the governor may appoint a member for the remaining portion of the unexpired term created by the vacancy. The governor may remove any appointed member for cause. The members of the commission shall be reimbursed for travel and other expenses actually and necessarily incurred in the performance of their duties.

3. The commission shall hold at least four regular meetings each year and such additional meetings as the chairman deems desirable at a place and time to be fixed by the chairman. Special meetings may be called by three members of the commission upon delivery of written notice to each member of the commission. Reasonable written notice of all meetings shall be given by the director to all members of the commission. Four members of the commission shall constitute a quorum. All powers and duties conferred specifically upon members of the commission shall be exercised personally by the members and not by alternates or representatives. All actions of the commission shall be taken at meetings open to the public. Any member absent from six consecutive regular commission meetings for any cause whatsoever shall be deemed to have resigned and the vacancy shall be filled immediately in accordance with subsection 1 of this section.

Approved July 10, 2002

SB 712 [CCS HS HCS SCS SB 712]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the Missouri State Emergency Health Powers Act to address state public health emergencies.

AN ACT to repeal sections 44.010, 44.023, 190.500, 306.124, 307.177, 407.472, 473.697, 490.620, 542.400, 542.402, 542.404, 542.406, 542.408, 542.410, 542.412, 542.414, 542.416, 542.418, 542.420, 542.422, 570.030, 571.020, 574.105, 574.115, 575.080, 578.008 and 610.021, and to enact in lieu thereof thirty-two new sections relating to terrorism, with penalty provisions and an expiration date for a certain section.

SECTION

- A. Enacting clause.
- 38.050. Joint committee on terrorism, bioterrorism, and homeland security established, members, duties, meetings, expenses, report — expires, when.
- 44.010. Definitions.
- 44.023. Disaster volunteer program established, agency's duties — expenses — immunity from liability, exception.
- 190.500. Temporary license — qualified health care professions — declared emergency.
- 195.041. Emergencies, waiver of registration and record-keeping requirements for controlled substances, when.
- 304.370. Hazardous materials, requirements for transportation — violations, penalties.
- 306.124. Aids to navigation and regulatory markers defined — water patrol may mark waters, hearing, notice — markings, effect of — disaster, closing of certain waters — violation, penalty.
- 307.177. Transporting hazardous materials, equipment required — federal physical requirements not applicable, when — violations, penalty.
- 407.472. Investigations by attorney general — investigative demand, how served — injunction, procedure.
- 473.697. Letters of administration for persons absent for five or more years — application — notice — hearing.
- 490.620. Person, when presumed to be dead.
- 542.400. Definitions.
- 542.402. Penalty for illegal wiretapping, permitted activities.
- 542.404. Application for an order — authorization by attorney general — approval by judge, probable cause required.
- 542.406. Disclosure of contents — privileged communications.
- 542.408. Application, contents — ex parte order issued, when, contents, extensions granted, when — reports, court may require, when — pen registers, who may request — communication, common carriers may provide aid, immunity from suit, compensation.
- 542.410. Recording of contents, required, how, custody of, duplication, destruction of — applications and orders sealed by court, disclosure, when, destruction of — penalty — notice to persons named in order, when, right to inspect and copy contents.
- 542.412. Contents may be used as evidence, when — disclosure of additional evidence to defendant.
- 542.414. Suppression of contents, grounds — right of state to appeal suppression motion, when.
- 542.416. Reports to state courts administrator required, when, contents, who must report — state courts administrator to report to general assembly, when — rules and regulations.
- 542.418. Use of contents of wiretap in civil action, limitations on — illegal wiretap, cause of action, damages, attorney fees and costs — good faith reliance on court order a prima facie defense.
- 542.420. Evidence obtained in violation of law may not be used.
- 542.422. Injunctions of felony violations of sections 542.400 to 542.424, procedure.
- 569.072. Water contamination, penalty.
- 570.030. Stealing — penalties.
- 571.020. Possession — manufacture — transport — repair — sale of certain weapons a crime — exceptions — penalties.
- 574.105. Crime of money laundering, committed, when — penalty.
- 574.115. Making a terrorist threat, penalty.
- 575.080. False reports.
- 576.080. Supporting terrorism — definition of material support — penalty.
- 578.008. Agroterrorism, crime of — penalty — defenses.
- 610.021. Closed meetings and closed records authorized when, exceptions.
- 542.400. Definitions.
- 542.402. Penalty for illegal wiretapping, permitted activities.

- 542.404. Application for an order — authorization by attorney general — approval by judge, probable cause required.
- 542.406. Disclosure of contents — privileged communications.
- 542.408. Application, contents — ex parte order issued, when, contents, extensions granted, when — reports, court may require, when — pen registers, who may request — communication, common carriers may provide aid, immunity from suit, compensation.
- 542.410. Recording of contents, required, how, custody of, duplication, destruction of — applications and orders sealed by court, disclosure, when, destruction of — penalty — notice to persons named in order, when, right to inspect and copy contents.
- 542.412. Contents may be used as evidence, when — disclosure of additional evidence to defendant.
- 542.414. Suppression of contents, grounds — right of state to appeal suppression motion, when.
- 542.416. Reports to state courts administrator required, when, contents, who must report — state courts administrator to report to general assembly, when — rules and regulations.
- 542.418. Use of contents of wiretap in civil action, limitations on — illegal wiretap, cause of action, damages, attorney fees and costs — good faith reliance on court order a prima facie defense.
- 542.420. Evidence obtained in violation of law may not be used.
- 542.422. Injunctions of felony violations of sections 542.400 to 542.424, procedure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 44.010, 44.023, 190.500, 306.124, 307.177, 407.472, 473.697, 490.620, 542.400, 542.402, 542.404, 542.406, 542.408, 542.410, 542.412, 542.414, 542.416, 542.418, 542.420, 542.422, 570.030, 571.020, 574.105, 574.115, 575.080, 578.008 and 610.021, are repealed and thirty-two new sections enacted in lieu thereof, to be known as sections 38.050, 44.010, 44.023, 190.500, 195.041, 304.370, 306.124, 307.177, 407.472, 473.697, 490.620, 542.400, 542.402, 542.404, 542.406, 542.408, 542.410, 542.412, 542.414, 542.416, 542.418, 542.420, 542.422, 569.072, 570.030, 571.020, 574.105, 574.115, 575.080, 576.080, 578.008 and 610.021, to read as follows:

38.050. JOINT COMMITTEE ON TERRORISM, BIOTERRORISM, AND HOMELAND SECURITY ESTABLISHED, MEMBERS, DUTIES, MEETINGS, EXPENSES, REPORT — EXPIRES, WHEN. — 1. There is established a joint committee of the general assembly to be known as the "Joint Committee on Terrorism, Bioterrorism, and Homeland Security" to be composed of seven members of the senate and seven members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem and minority floor leader of the senate and the house members shall be appointed by the speaker and minority floor leader of the house of representatives. The appointment of each member shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place when his or her term of office as a member of the general assembly has expired. No party shall be represented by more than four members from the house of representatives nor more than four members from the senate. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the determination of any matter within the committee's duties.

2. The joint committee shall:

- (1) Make a continuing study and analysis of all state government terrorism, bioterrorism, and homeland security efforts;
- (2) Devise a standard reporting system to obtain data on each state government agency that will provide information on each agency's terrorism and bioterrorism preparedness, and homeland security status at least biennially;
- (3) Determine from its study and analysis the need for changes in statutory law; and
- (4) Make any other recommendation to the general assembly necessary to provide adequate terrorism and bioterrorism protections, and homeland security to the citizens of the state of Missouri.

3. The joint committee shall meet within thirty days after its creation and organize by selecting a chairperson and a vice chairperson, one of whom shall be a member of the

senate and the other a member of the house of representatives. The chairperson shall alternate between members of the house and senate every two years after the committee's organization.

4. The committee shall meet at least quarterly. The committee may meet at locations other than Jefferson City when the committee deems it necessary.

5. The committee shall be staffed by legislative personnel as is deemed necessary to assist the committee in the performance of its duties.

6. The members of the committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties.

7. It shall be the duty of the committee to compile a full report of its activities for submission to the general assembly. The report shall be submitted not later than the fifteenth of January of each year in which the general assembly convenes in regular session and shall include any recommendations which the committee may have for legislative action as well as any recommendations for administrative or procedural changes in the internal management or organization of state or local government agencies and departments. Copies of the report containing such recommendations shall be sent to the appropriate directors of state or local government agencies or departments included in the report.

8. The provisions of this section shall expire on December 31, 2007.

44.010. DEFINITIONS. — As used in sections 44.010 to 44.130, the following terms mean:

(1) "Agency", the state emergency management agency;

(2) **"Bioterrorism"**, the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence the conduct of government or to intimidate or coerce a civilian population;

(3) "Director", the director of the state emergency management agency;

[(3)] (4) "Disasters", disasters which may result from terrorism, **including bioterrorism**, or from fire, wind, flood, earthquake, or other natural or man-made causes;

[(4)] (5) "Economic or geographic area", an area or areas within the state, or partly in this state and adjacent states, comprising political subdivisions grouped together for purposes of administration, organization, control or disaster recovery and rehabilitation in time of emergency;

[(5)] (6) "Emergency", any state of emergency declared by proclamation by the governor, or by resolution of the legislature pursuant to sections 44.010 to 44.130 upon the actual occurrence of a natural or man-made disaster of major proportions within this state when the safety and welfare of the inhabitants of this state are jeopardized;

[(6)] (7) "Emergency management", government at all levels performing emergency functions, other than functions for which military forces are primarily responsible;

[(7)] (8) "Emergency management functions", "emergency management activities" and "emergency management service", those functions required to prepare for and carry out actions to prevent, minimize and repair injury and damage due to disasters, to include emergency management of resources and administration of such economic controls as may be needed to provide for the welfare of the people, either on order of or at the request of the federal government, or in the event the federal government is incapable of administering such control;

[(8)] (9) "Emergency resources planning and management", planning for, management and coordination of national, state and local resources;

[(9)] (10) "Executive officer of any political subdivision", the county commission or county supervisor or the mayor or other manager of the executive affairs of any city, town, village or fire protection district;

~~[(10)]~~ **(11)** "Local organization for emergency management", any organization established under this law by any county or by any city, town, or village to perform local emergency management functions;

~~[(11)]~~ **(12)** "Management", the activities of the emergency management director in the implementation of emergency operations plans during time of emergency;

~~[(12)]~~ **(13)** "Planning", activities of the state and local emergency management agency in the formulation of emergency management plans to be used in time of emergency;

~~[(13)]~~ **(14)** "Political subdivision", any county or city, town or village, or any fire district created by law.

44.023. DISASTER VOLUNTEER PROGRAM ESTABLISHED, AGENCY'S DUTIES — EXPENSES — IMMUNITY FROM LIABILITY, EXCEPTION. — 1. The Missouri state emergency management agency shall establish and administer an emergency volunteer program to be activated in the event of ~~[an earthquake or other natural]~~ **a** disaster whereby volunteer architects and professional engineers registered under chapter 327, RSMo, and construction contractors, equipment dealers and other owners and operators of construction equipment may volunteer the use of their services and equipment, either manned or unmanned, for up to three days as requested and needed by the state emergency management agency.

2. In the event of ~~[an earthquake or other natural]~~ **a** disaster, the enrolled volunteers shall, where needed, assist local jurisdictions and local building inspectors to provide essential demolition, cleanup or other related services and to determine whether buildings affected by ~~[an earthquake or other natural]~~ **a** disaster:

- (1) Have not sustained serious damage and may be occupied;
- (2) Must be vacated temporarily pending repairs; or
- (3) Must be demolished in order to avoid hazards to occupants or other persons.

3. Any person when utilized as a volunteer under the emergency volunteer program shall have his incidental expenses paid by the local jurisdiction for which the volunteer service is provided.

4. Architects and professional engineers, construction contractors, equipment dealers and other owners and operators of construction equipment and the companies with which they are employed, working under the emergency volunteer program shall not be personally liable either jointly or separately for any act or acts committed in the performance of their official duties as emergency volunteers except in the case of willful misconduct or gross negligence.

5. Any individuals, employers, partnerships, corporations or proprietorships, that are working under the emergency volunteer program providing demolition, cleanup, removal or other related services, shall not be liable for any acts committed in the performance of their official duties as emergency volunteers except in the case of willful misconduct or gross negligence.

190.500. TEMPORARY LICENSE — QUALIFIED HEALTH CARE PROFESSIONS — DECLARED EMERGENCY. — 1. Notwithstanding any other provision of law to the contrary, a temporary license may be issued for no more than a twelve-month period by the appropriate licensing board to any otherwise qualified health care professional licensed **and in good standing** in another state and who meets such other requirements as the licensing board may prescribe by rule and regulation, if the health care professional:

- (1) Is acting pursuant to federal military orders under Title X for active duty personnel or Title XXXII for ~~[military reservists]~~ **national guard members**; and
- (2) Is enrolled in an accredited training program for trauma treatment and disaster response in a hospital in this state; or

(3) If the health care professional is acting pursuant to the governor's declaration of an emergency as defined in section 44.010, RSMo, such temporary licensure shall be

issued pursuant to this subdivision for a two-week period and, upon license verification, may be reissued every two weeks thereafter.

2. Licensure information and confirmation of health care professionals acting pursuant to this section may be obtained by any available means, including electronic mail.

3. For purposes of this section, the term "health care professional" shall have the same meaning as such term is defined in section 383.130, RSMo.

195.041. EMERGENCIES, WAIVER OF REGISTRATION AND RECORD-KEEPING REQUIREMENTS FOR CONTROLLED SUBSTANCES, WHEN. — In the event of an emergency as defined in section 44.010, RSMo, the department of health and senior services may waive the registration and record keeping requirements set forth in sections 195.010 to 195.100, RSMo, and their attendant regulations if the department determines such a waiver would be in the best interest of the public health.

304.370. HAZARDOUS MATERIALS, REQUIREMENTS FOR TRANSPORTATION — VIOLATIONS, PENALTIES. — 1. For purposes of this section, "hazardous materials" shall be as defined pursuant to Part 397, Title 49, Code of Federal Regulations, as adopted and amended.

2. No person shall transport hazardous materials in or through any highway tunnel in this state.

3. No person shall park a vehicle containing hazardous materials within three hundred feet of any highway tunnel in this state except as provided pursuant to Part 397, Title 49, Code of Federal Regulations, as adopted and amended.

4. Any person who is found or pleads guilty to a violation of this section shall be guilty of a class B misdemeanor. Any person who is found or pleads guilty to a second or subsequent violation of this section shall be guilty of a class A misdemeanor. Violations of this section shall be enforced pursuant to section 390.201, RSMo.

306.124. AIDS TO NAVIGATION AND REGULATORY MARKERS DEFINED — WATER PATROL MAY MARK WATERS, HEARING, NOTICE — MARKINGS, EFFECT OF — DISASTER, CLOSING OF CERTAIN WATERS—VIOLATION, PENALTY. — 1. (1) "Aids to navigation" means buoys, beacons or other fixed objects in the water which are used to mark obstructions to navigation or to direct navigation through safe channels.

(2) "Regulatory markers" means any anchored or fixed markers in or on the water or signs on the shore or on bridges over the water other than aids to navigation and shall include but not be limited to bathing markers, speed zone markers, information markers, danger zone markers, boat keep-out areas, and mooring buoys.

2. The Missouri state water patrol after a public hearing pursuant to notice thereof published not less than ten days prior thereto in each county to be affected may provide for the uniform marking of the water areas in this state through the placement of aids to navigation and regulatory markers. The Missouri state water patrol shall establish a marking system compatible with the system of aids to navigation prescribed by the United States Coast Guard. No city, county, or person shall mark or obstruct the water of this state in any manner so as to endanger the operation of watercraft or conflict with the marking system prescribed by the state water patrol.

3. Whenever, due to any actual or imminent man-made or natural disaster, the navigation or use of any waters of this state presents an unreasonable danger to persons or property, the Missouri state water patrol may, with the consent of the director of the department of public safety, close such waters by the placement of regulatory markers.

[3.] 4. The operation of any watercraft within prohibited areas that are marked shall be prima facie evidence of negligent operation.

[4.] 5. It shall be unlawful for any person to operate a watercraft on the waters of this state in a manner other than that prescribed or permitted by regulatory markers.

[5.] 6. No person shall moor or fasten a watercraft to or willfully damage, tamper, remove, obstruct, or interfere with any aid to navigation or regulatory marker established pursuant to sections 306.010 to 306.126.

307.177. TRANSPORTING HAZARDOUS MATERIALS, EQUIPMENT REQUIRED — FEDERAL PHYSICAL REQUIREMENTS NOT APPLICABLE, WHEN — VIOLATIONS, PENALTY. — 1. It is unlawful for any person to operate any bus, truck, truck-tractor and trailer combination, or other commercial motor vehicle and trailer upon any highway of this state, whether intrastate transportation or interstate transportation, transporting materials defined and classified as hazardous by the United States Department of Transportation pursuant to Title 49 of the Code of Federal Regulations, as such regulations have been and may periodically be amended, unless such vehicle is equipped with the equipment required by and be operated in accordance with safety and hazardous materials regulations for such vehicles as adopted by the United States Department of Transportation.

2. Notwithstanding the provisions of subsection 1 of this section to the contrary, Part 391, Subpart E, Title 49, Code of Federal Regulations, relating to the physical requirements of drivers shall not be applicable to drivers in intrastate commerce, provided such drivers were licensed by this state as chauffeurs to operate commercial motor vehicles on May 13, 1988.

3. Failure to comply with the requirements of this section may result in the commercial motor vehicle and trailer and driver of such vehicle and trailer being placed out of service. Criteria used for placing drivers and vehicles out of service are the North American Uniform Out-of-Service Criteria adopted by the Commercial Vehicle Safety Alliance and the United States Department of Transportation, as such criteria have been and may periodically be amended.

4. Violation of this section shall be deemed a class A misdemeanor.

407.472. INVESTIGATIONS BY ATTORNEY GENERAL — INVESTIGATIVE DEMAND, HOW SERVED — INJUNCTION, PROCEDURE. — 1. When it appears to the attorney general that a person has engaged in, is engaging in or is about to engage in any method, use, act or practice declared to be unlawful by sections 407.450 to 407.478, **or when it appears that any funds solicited by or on behalf of any charitable organization are being used, or are about to be used, for any purpose in violation of this chapter or section 576.080, RSMo,** or when he or she believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in, or is about to engage in any such act or practice he or she may issue and cause to be served a civil investigative demand to assist in the investigation of the matter. The issuance and enforcement of each civil investigative demand shall be in compliance with all of the terms and provisions of sections 407.040 to 407.090.

2. Whenever it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in any method, use, act, or practice declared to be unlawful by sections 407.450 to 407.478, **or when it appears that any funds solicited by or on behalf of any charitable organization are being used, or are about to be used, for any purpose in violation of this chapter or section 576.080, RSMo,** he or she may bring an action pursuant to section 407.100 for an injunction prohibiting such person from continuing such methods, uses, acts, or practices, or engaging therein, or doing anything in furtherance thereof. In any action brought by the attorney general [under] **pursuant to** this subsection all of the provisions of sections 407.100 to 407.140 shall apply thereto.

473.697. LETTERS OF ADMINISTRATION FOR PERSONS ABSENT FOR FIVE OR MORE YEARS — APPLICATION — NOTICE — HEARING. — Whenever application shall be made to any probate division for letters of administration upon the estate of any person supposed to be

dead, because of the absence of such person for five consecutive years from the place of his last known domicile within this state, **or because such person was exposed to a specific peril of death due to a terrorist event**, or because, having been a resident of this state, such person has heretofore gone from and has not returned to this state for five consecutive years, or, because, having been such resident of this state, such person shall hereafter go from and shall not return to this state for five consecutive years, or, because being a resident of this state, such person shall have so concealed or conducted himself within this state that he shall not have been heard of for five consecutive years by the judge of the probate division having jurisdiction of his estate, or by the persons interested therein, then said court, if satisfied that the applicant would be entitled to such letters if the supposed decedent were in fact dead, shall cause a notice to such supposed deceased person to be published in a newspaper, published in the county, once a week for four consecutive weeks, setting forth the fact that such application has been made, together with notice that on a day certain, which shall be at least two weeks after the last publication of such notice, the court will hear evidence concerning the alleged absence of the supposed decedent, and the circumstances and duration thereof. The persons applying for such letters of administration shall file a petition stating the facts upon which such application is based and the place where such supposed deceased person resided when last heard from by him or by any person within his knowledge.

490.620. PERSON, WHEN PRESUMED TO BE DEAD. — If any person who shall have resided in this state [go] **goes** from and [do] **does** not return to this state for five successive years, he **or she** shall be presumed to be dead in any case wherein his **or her** death shall come in question, unless proof be made that he **or she** was alive within that time. **The fact that such person was exposed to a specific peril of death due to a terrorist event may be a sufficient basis for determining at any time after such exposure that he or she died less than five years after the date his or her absence commenced.**

542.400. DEFINITIONS. — As used in sections 542.400 to 542.422, the following words and phrases mean:

- (1) "Aggrieved person", a person who was a party to any intercepted wire communication or a person against whom the interception was directed;
- (2) "Communication common carrier", an individual or corporation undertaking to transport messages for compensation;
- (3) "Contents", when used with respect to any wire communication, includes any information concerning the identity of the parties, the substance, purport, or meaning of that communication;
- (4) "Court of competent jurisdiction", any circuit court having general criminal jurisdiction within the territorial jurisdiction where the communication is to be intercepted including any circuit judge specially assigned by the supreme court of Missouri pursuant to section 542.404;
- (5) "Electronic, mechanical, or other device", any device or apparatus which can be used to intercept a wire communication other than:
 - (a) Any telephone or telegraph instrument, equipment or facility, or any component thereof, owned by the user or furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or being used by a communications common carrier in the ordinary course of its business or by an investigative office or law enforcement officer in the ordinary course of his duties; or
 - (b) A hearing aid or similar device being used to correct subnormal hearing to not better than normal;

(6) "Intercept", the aural acquisition of the contents of any wire communication through the use of any electronic or mechanical device, including but not limited to interception by one spouse of another spouse;

(7) "Investigative officer" or "law enforcement officer or agency", any officer or agency of this state or a political subdivision of this state, who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in sections 542.400 to 542.422, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;

(8) "Oral communication", any communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation;

(9) "Person", any employee, or agent of this state or political subdivision of this state, and any individual, partnership, association, joint stock company, trust, or corporation;

(10) "Prosecuting attorney", the elected prosecuting attorney of the county or the circuit attorney of any city not contained within a county;

(11) "State", state of Missouri and political subdivisions of the state;

(12) "Wire communication", any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception including the use of such connection in a switching station furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of local, state or interstate communications.

542.402. PENALTY FOR ILLEGAL WIRETAPPING, PERMITTED ACTIVITIES. — 1. Except as otherwise specifically provided in sections 542.400 to 542.422, a person is guilty of a class D felony and upon conviction shall be punished as provided by law, if such person:

(1) Knowingly intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire communication;

(2) Knowingly uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when such device transmits communications by radio or interferes with the transmission of such communication; provided, however, that nothing in sections 542.400 to 542.422 shall be construed to prohibit the use by law enforcement officers of body microphones and transmitters in undercover investigations for the acquisition of evidence and the protection of law enforcement officers and others working under their direction in such investigations;

(3) Knowingly discloses, or endeavors to disclose, to any other person the contents of any wire communication, when he knows or has reason to know that the information was obtained through the interception of a wire communication in violation of this subsection; or

(4) Knowingly uses, or endeavors to use, the contents of any wire communication, when he knows or has reason to know that the information was obtained through the interception of a wire communication in violation of this subsection.

2. It is not unlawful under the provisions of sections 542.400 to 542.422:

(1) For an operator of a switchboard, or an officer, employee, or agent of any communication common carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the carrier of such communication, however, communication common carriers shall not utilize service observing or random monitoring except for mechanical or service quality control checks;

(2) For a person acting under law to intercept a wire or oral communication, where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception;

(3) For a person not acting under law to intercept a wire communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act.

542.404. APPLICATION FOR AN ORDER — AUTHORIZATION BY ATTORNEY GENERAL — APPROVAL BY JUDGE, PROBABLE CAUSE REQUIRED. — 1. The elected prosecuting attorney of the county with the written authorization of the attorney general of the state of Missouri may make application for an order authorizing the interception of a wire communication. The supreme court of Missouri, upon notice that the attorney general of the state of Missouri has authorized application for an interception of a wire communication, shall appoint a circuit court from a circuit other than the circuit where the application originates to approve or deny the application and to issue any necessary orders. Such court may grant in conformity with sections 542.400 to 542.422, an order authorizing the interception of wire communications by the law enforcement agency having responsibility for the investigation of the offense if there is probable cause to believe that the interception may provide evidence of a felony which involves the manufacture or distribution of a controlled substance, as the term is defined by section 195.016, or the felony of murder, arson, or kidnapping, or a terrorist threat as defined in section 574.115, or any conspiracy to commit any of the foregoing.

2. Any order entered pursuant to the provisions of sections 542.400 to 542.422 shall require live monitoring by appropriate law enforcement personnel of the interception of any wire communication.

542.406. DISCLOSURE OF CONTENTS — PRIVILEGED COMMUNICATIONS. — 1. Any investigative officer or law enforcement officer who, by any means authorized by sections 542.400 to 542.422, has lawfully obtained knowledge of the contents of any wire communication, or evidence derived therefrom, may disclose such contents to another investigative officer or law enforcement officer to the extent that such disclosure is necessary to the proper performance of the official duties of the officer making or receiving the disclosure for investigative purposes only.

2. Any investigative officer or law enforcement officer who, by any means authorized by sections 542.400 to 542.422, has lawfully obtained knowledge of the contents of any wire or oral communication, or evidence derived therefrom, may use such contents to the extent such use is necessary to the proper performance of his official duties.

3. Any person who has received, by any means authorized by sections 542.400 to 542.422, any information concerning a wire communication, or evidence derived therefrom, intercepted in accordance with the provisions of sections 542.400 to 542.422 shall disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any criminal proceeding, including deposition in any court or in any grand jury proceeding, subject to the rules of evidence.

4. No otherwise privileged wire communication intercepted in accordance with, or in violation of, the provisions of sections 542.400 to 542.422 shall lose its privileged character and shall be suppressed upon motion.

542.408. APPLICATION, CONTENTS — EX PARTE ORDER ISSUED, WHEN, CONTENTS, EXTENSIONS GRANTED, WHEN — REPORTS, COURT MAY REQUIRE, WHEN — PEN REGISTERS, WHO MAY REQUEST — COMMUNICATION, COMMON CARRIERS MAY PROVIDE AID, IMMUNITY FROM SUIT, COMPENSATION. — 1. Each application for an order authorizing

or approving the interception of a wire communication shall be made in writing and shall be submitted to the attorney general for his review and approval. If the attorney general approves the application, he shall join such application, which shall be submitted upon oath or affirmation to a court of competent jurisdiction and shall state the applicant's authority to make such application. Each application shall include the following information:

(1) The identity of the prosecuting attorney making the application together with the identities of the law enforcement agency or agencies that are to conduct the interception;

(2) A full and complete statement of the facts and circumstances relied upon by the applicant to justify his belief that an order should be issued, including:

(a) Details as to the particular offense that has been, is being, or is about to be committed;

(b) A particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted;

(c) A particular description of the type of communications sought to be intercepted; and

(d) The identity of the person and employment, if known, committing the offense and whose communications are to be intercepted;

(e) That the application is sought solely for detection of the crimes enumerated in section 542.404;

(3) A full and complete statement as to whether other investigative procedures have been tried and failed, or why they reasonably appear to be unlikely to succeed if tried, or to be too dangerous;

(4) A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for the interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

(5) A full and complete statement of the facts concerning all previous applications known or available to the individual authorizing and making the application, made to any court for authorization to intercept, or for approval of interceptions of, wire communications involving any of the same persons, facilities or places specified in the application, and the action taken by the court on each such application;

(6) Where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or an explanation of the failure to obtain such results; and

(7) A statement that adequate resources are available to perform the interception and the estimated number of persons required to accomplish the interception.

2. The court may require the applicant to furnish additional testimony or documentary evidence in support of the application.

3. Upon such application the court may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire communications within the territorial jurisdiction of the court, if the court determines on the basis of the facts submitted by the applicant that:

(1) Probable cause exists to believe that an individual is committing, has committed, or is about to commit a particular offense enumerated in section 542.404;

(2) Probable cause exists to believe that particular communications concerning that offense will be obtained through such interception;

(3) Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous; and

(4) Probable cause exists to believe that the facilities from which, or the place where, the wire communications are to be intercepted are being used, or are about to be used, in

connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person.

4. Each order authorizing or approving the interception of any wire communication shall specify:

(1) The identity of the person and employment, if known, whose communications are to be intercepted;

(2) The nature and location of the communication facilities as to which, or the place where, authority to intercept is granted including whether the interception involves a cellular or other wireless device;

(3) A particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

(4) The identity of the agency authorized to intercept the communications, and of the person authorizing the application;

(5) The period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

5. No order entered under this section may authorize or approve the interception of any wire communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection 1 of this section and the court making the findings required by subsection 3 of this section. The period of extension shall be no longer than the court deems necessary to achieve the purposes for which it was granted and in no event longer than thirty days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under sections 542.400 to 542.422, and shall terminate upon attainment of the authorized objective, or in any event in thirty days.

6. Whenever an order authorizing interception is entered pursuant to the provisions of sections 542.400 to 542.422, the order may require reports to be made to the court who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the court may require, but in no case longer than thirty days.

7. Notwithstanding any other provisions of sections 542.400 to 542.422, any law enforcement officer with the approval of the prosecuting attorney may request an order of an appropriate court whenever reasonable grounds therefor exist to have a pen register placed in effect, which pen register will only determine the phone number to which the call is placed.

8. Notwithstanding any other provision of law to the contrary, communication common carriers, and their officers, employees and agents, may provide information, facilities or technical assistance to persons authorized by law to intercept wire communications, if the communication common carrier, its officers, employees or agents have been provided with a court order directing such assistance signed by the authorizing court. The court order shall set forth the period of time during which the provision of the information, facilities or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No cause of action shall lie in any court against any communication common carrier, its officers, employees, and agents for providing information, facilities or assistance in accordance with the terms of an order under this subsection. Any communication common carrier furnishing such facilities or technical assistance shall be compensated therefor by the prosecuting attorney at the prevailing rates.

542.410. RECORDING OF CONTENTS, REQUIRED, HOW, CUSTODY OF, DUPLICATION, DESTRUCTION OF — APPLICATIONS AND ORDERS SEALED BY COURT, DISCLOSURE, WHEN, DESTRUCTION OF — PENALTY — NOTICE TO PERSONS NAMED IN ORDER, WHEN, RIGHT TO INSPECT AND COPY CONTENTS. — 1. The contents of any wire communication intercepted by any means authorized by sections 542.400 to 542.422 shall be recorded on tape or wire or other comparable device. The recording of the contents of any wire or oral communication as required by this section shall be done in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the court issuing such order and shall be sealed under its directions. Custody of the recordings shall be wherever the court orders. The recordings shall not be destroyed except upon an order of the issuing court and in any event shall be kept for ten years. Duplicate recordings shall be made for use for disclosure pursuant to the provisions of subsections 1 and 2 of section 542.406 for investigations and discovery in accordance with applicable supreme court rules. The presence of the seal provided for by subsection 2 of this section, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire communication or evidence derived therefrom under the provisions of subsection 3 of section 542.406.

2. Applications made and orders granted under sections 542.400 to 542.422 shall be sealed by the court. Custody of the applications and orders shall be wherever the court directs. Such applications and orders shall be disclosed only upon a showing of good cause before a court of competent jurisdiction and shall not be destroyed except on order of the issuing or denying court, and in any event shall be kept for ten years.

3. Any violation of the provisions of this section shall be punishable as a class A misdemeanor.

4. Within a reasonable time but not later than ninety days after the filing of an application for an order of approval under the provisions of sections 542.400 to 542.422 or the termination of the period of an order or extensions thereof, whichever is later, the issuing or denying court shall cause to be served, on the persons named in the order or the application, and such other parties to intercepted communications an inventory which shall include notice of:

- (1) The fact of the entry of the order or the application;
- (2) The date of the entry and the period of authorized, approved interception;
- (3) The fact that during the period oral communications were or were not intercepted; and
- (4) The nature of said conversations.

The court, upon the filing of a motion, shall make available to such person or his counsel for inspection and copying such intercepted communications, applications and orders.

542.412. CONTENTS MAY BE USED AS EVIDENCE, WHEN — DISCLOSURE OF ADDITIONAL EVIDENCE TO DEFENDANT. — 1. The contents of any intercepted wire communications or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in federal or state court nor in any administrative proceeding unless each party, in compliance with supreme court rules relating to discovery in criminal cases, hearings and proceedings, has been furnished with a copy of the court order and accompanying application under which the interception was authorized or approved and a transcript of any intercepted wire communication or evidence derived therefrom.

2. If the defense in its request designates material or information not in the possession or control of the state, but which is, in fact, in the possession or control of other governmental personnel, the state shall use diligence and make good faith efforts to cause such materials to be made available to the defendant's counsel, and if the state's efforts are

unsuccessful and such material or other governmental personnel are subject to the jurisdiction of the court, the court, upon request, shall issue suitable subpoenas or orders to cause such material or information to be made available to the state for disclosure to the defense.

542.414. SUPPRESSION OF CONTENTS, GROUNDS — RIGHT OF STATE TO APPEAL SUPPRESSION MOTION, WHEN. — 1. Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, the state, or a political subdivision thereof, may move to suppress the contents of any intercepted wire communication, or evidence derived therefrom, on the grounds that:

- (1) The communication was unlawfully intercepted;
- (2) The order of authorization or approval under which it was intercepted is insufficient on its face;
- (3) The interception was not made in conformity with the order of authorization or approval; or
- (4) The communication was intercepted in violation of the provisions of the Constitution of the United States or the state of Missouri or in violation of a state statute. Such motion shall be made before the trial, hearing, or proceeding unless there was no reasonable opportunity to make such motion or the person was not aware of the existence of grounds for the motion. If the motion is granted, the contents of the intercepted wire communication, or evidence derived therefrom or the contents of any communication intercepted as a result of any extension of the original order authorizing or approving the interception of wire communication, and any evidence derived therefrom, shall be treated as having been obtained in violation of sections 542.400 to 542.422.

2. In addition to any other right to appeal, the state shall have the right to appeal from an order granting a motion to suppress made under subsection 1 of this section if the prosecuting attorney shall certify to the court or other official granting such motion that the appeal be taken within thirty days after the date the order was entered and shall be diligently prosecuted.

542.416. REPORTS TO STATE COURTS ADMINISTRATOR REQUIRED, WHEN, CONTENTS, WHO MUST REPORT — STATE COURTS ADMINISTRATOR TO REPORT TO GENERAL ASSEMBLY, WHEN — RULES AND REGULATIONS. — 1. Within thirty days after the expiration of an order or each extension thereof entered pursuant to the provisions of section 542.408, the issuing court shall report to the state courts administrator:

- (1) The fact that an order or extension was applied for;
- (2) The kind of order or extension applied for;
- (3) The fact that the order or extension was granted as applied for, was modified, or was denied;
- (4) The period of interceptions authorized by the order, and the number and duration of any extensions of the order;
- (5) The offense specified in the order or application, or extension of an order;
- (6) The identity of the applying investigative officer or law enforcement officer and agency making the application and the person authorizing the application; and
- (7) The nature of the facilities from which or the place where communications were to be intercepted.

2. In January of each year, the principal prosecuting attorney for any political subdivision of the state shall report to the state courts administrator:

- (1) The information required by subdivisions (1) through (7) of subsection 1 of this section with respect to each application for an order or extension made during the preceding calendar year;

(2) A general description of the interceptions made under such order or extension, including:

(a) The approximate nature and frequency of incriminating communications intercepted;

(b) The approximate nature and frequency of other communications intercepted;

(c) The approximate number of persons whose communications were intercepted; and

(d) The approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

(3) The number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;

(4) The number of trials resulting from such interceptions;

(5) The number of motions to suppress made with respect to such interceptions, and the number granted or denied;

(6) The number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions; and

(7) The information required by subdivisions (2) through (6) of this subsection with respect to orders or extensions obtained in the preceding calendar year.

3. In April of each year the state courts administrator shall transmit to the Missouri general assembly a full and complete report concerning the number of applications for orders authorizing or approving the interception of wire communications and the number of orders and extensions granted or denied during the preceding calendar year. Such report shall include a summary and analysis of the data required to be filed with the state courts administrator by subsections 1 and 2 of this section. The state courts administrator may promulgate rules and regulations dealing with the content and form of the reports required to be filed by subsections 1 and 2 of this section.

542.418. USE OF CONTENTS OF WIRETAP IN CIVIL ACTION, LIMITATIONS ON — ILLEGAL WIRETAP, CAUSE OF ACTION, DAMAGES, ATTORNEY FEES AND COSTS — GOOD FAITH RELIANCE ON COURT ORDER A PRIMA FACIE DEFENSE. — 1. The contents of any wire communication or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any civil or administrative proceeding, except in civil actions brought pursuant to this section.

2. Any person whose wire communication is intercepted, disclosed, or used in violation of sections 542.400 to 542.422 shall:

(1) Have a civil cause of action against any person who intercepts, discloses, or uses, or procures any other person to intercept, disclose, or use such communications; and

(2) Be entitled to recover from any such person:

(a) Actual damages, but not less than liquidated damages computed at the rate of one hundred dollars a day for each day of violation or ten thousand dollars whichever is greater;

(b) Punitive damages on a showing of a willful or intentional violation of sections 542.400 to 542.422; and

(c) A reasonable attorney's fee and other litigation costs reasonably incurred.

3. A good faith reliance on a court order or on the provisions of section 542.408 shall constitute a prima facie defense to any civil or criminal action brought under sections 542.400 to 542.422.

4. Nothing contained in this section shall limit any cause of action available prior to August 28, 1989.

542.420. EVIDENCE OBTAINED IN VIOLATION OF LAW MAY NOT BE USED. — Whenever any wire communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a state, or a political subdivision thereof if the disclosure of that information would be in violation of sections 542.400 to 542.422.

542.422. INJUNCTIONS OF FELONY VIOLATIONS OF SECTIONS 542.400 TO 542.424, PROCEDURE. — Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a felony violation of sections 542.400 to 542.422, the attorney general may initiate a civil action in a circuit court to enjoin such violation. The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the state or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the rules of civil procedure except that, if an indictment has been returned against the respondent, discovery is governed by the rules of criminal procedure.

569.072. WATER CONTAMINATION, PENALTY. — 1. A person commits the crime of criminal water contamination if such person knowingly introduces any dangerous radiological, chemical or biological agent or substance into any public or private waters of the state or any water supply with the purpose of causing death or serious physical injury to another person.

2. Criminal water contamination is a class B felony.

570.030. STEALING — PENALTIES. — 1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution [under] pursuant to this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse.

3. Stealing is a class C felony if:

(1) The value of the property or services appropriated is seven hundred fifty dollars or more; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(f) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(g) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(h) Any book of registration or list of voters required by chapter 115, RSMo; or

(i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

(j) Live fish raised for commercial sale with a value of seventy-five dollars; or

(k) Any controlled substance as defined by section 195.010, RSMo; or

(l) Ammonium nitrate.

4. If an actor appropriates any material with a value less than one hundred fifty dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class D felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class C felony. The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.

5. The theft of any item of property or services [under] **pursuant to** subsection 3 of this section which exceeds seven hundred fifty dollars may be considered a separate felony and may be charged in separate counts.

6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony.

7. Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.

571.020. POSSESSION — MANUFACTURE — TRANSPORT — REPAIR — SALE OF CERTAIN WEAPONS A CRIME — EXCEPTIONS — PENALTIES. — 1. A person commits a crime if [he] **such person** knowingly possesses, manufactures, transports, repairs, or sells:

(1) An explosive weapon;

(2) An explosive, incendiary or poison substance or material with the purpose to possess, manufacture or sell an explosive weapon;

[2)] **(3)** A machine gun;

[3)] **(4)** A gas gun;

[4)] **(5)** A short barreled rifle or shotgun;

[5)] **(6)** A firearm silencer;

[6)] **(7)** A switchblade knife;

[7)] **(8)** A bullet or projectile which explodes or detonates upon impact because of an independent explosive charge after having been shot from a firearm; or

[8)] **(9)** Knuckles.

2. A person does not commit a crime [under] **pursuant to** this section if his conduct:

(1) Was incident to the performance of official duty by the armed forces, national guard, a governmental law enforcement agency, or a penal institution; or

(2) Was incident to engaging in a lawful commercial or business transaction with an organization enumerated in subdivision (1) of this section; or

(3) Was incident to using an explosive weapon in a manner reasonably related to a lawful industrial or commercial enterprise; or

(4) Was incident to displaying the weapon in a public museum or exhibition; or

(5) Was incident to dealing with the weapon solely as a curio, ornament, or keepsake, or to using it in a manner reasonably related to a lawful dramatic performance; but if the weapon is a type described in subdivision (1), [(3) or (5)] **(4) or (6)** of subsection 1 of this section it must be in such a nonfunctioning condition that it cannot readily be made operable. No short barreled

rifle, short barreled shotgun, or machine gun may be possessed, manufactured, transported, repaired or sold as a curio, ornament, or keepsake, unless such person is an importer, manufacturer, dealer, or collector licensed by the Secretary of the Treasury pursuant to the Gun Control Act of 1968, U.S.C., Title 18, or unless such firearm is an "antique firearm" as defined in subsection 3 of section 571.080, or unless such firearm has been designated a "collectors item" by the Secretary of the Treasury pursuant to the U.S.C., Title 26, Section 5845 (a).

3. A crime [under] **pursuant to** subdivision (1), (2), (3), (4) [or], (5) **or (6)** of subsection 1 of this section is a class C felony; a crime [under] **pursuant to** subdivision [(6),] (7) [or], (8) or (9) of subsection 1 of this section is a class A misdemeanor.

574.105. CRIME OF MONEY LAUNDERING, COMMITTED, WHEN — PENALTY. — 1. As used in this section, the following terms mean:

(1) "Conducts", initiating, concluding or participating in initiating or concluding a transaction;

(2) "Criminal activity", any act or activity constituting an offense punishable as a felony pursuant to the laws of Missouri or the United States;

(3) "Currency", currency and coin of the United States;

(4) "Currency transaction", a transaction involving the physical transfer of currency from one person to another. A transaction which is a transfer of funds by means of bank check, bank draft, wire transfer or other written order, and which does not include the physical transfer of currency is not a currency transaction;

(5) "Person", natural persons, partnerships, trusts, estates, associations, corporations and all entities cognizable as legal personalities.

2. A person commits the crime of money laundering if he:

(1) Conducts or attempts to conduct a currency transaction [involving the proceeds of criminal activity] with the purpose to promote or aid the carrying on of criminal activity; or

(2) Conducts or attempts to conduct a currency transaction with the purpose to conceal or disguise in whole or in part the nature, location, source, ownership or control of the proceeds of criminal activity; or

(3) Conducts or attempts to conduct a currency transaction with the purpose to avoid currency transaction reporting requirements under federal law; **or**

(4) Conducts or attempts to conduct a currency transaction with the purpose to promote or aid the carrying on of criminal activity for the purpose of furthering or making a terrorist threat or act.

3. The crime of money laundering is a class B felony and in addition to penalties otherwise provided by law, a fine of not more than five hundred thousand dollars or twice the amount involved in the transaction, whichever is greater, may be assessed.

574.115. MAKING A TERRORIST THREAT, PENALTY. — 1. A person commits the crime of making a [terroristic] **terrorist** threat if such person communicates a threat to [commit a felony,] **cause an incident or condition involving danger to life, communicates** a knowingly false report [concerning the commission of any felony] **of an incident or condition involving danger to life,** or knowingly [false report concerning the occurrence of any catastrophe] **causes a false belief or fear that an incident has occurred or that a condition exists involving danger to life:**

(1) [For] **With** the purpose of frightening [or disturbing] ten or more people;

(2) [For] **With** the purpose of causing the evacuation, **quarantine** or closure of any **portion of a** building, inhabitable structure, place of assembly or facility of transportation; or

(3) With reckless disregard of the risk of causing the evacuation, **quarantine** or closure of any **portion of a** building, inhabitable structure, place of assembly or facility of transportation; **or**

(4) **With criminal negligence with regard to the risk of causing the evacuation, quarantine or closure of any portion of a building, inhabitable structure, place of assembly or facility of transportation.**

2. Making a [terroristic] **terrorist** threat is a class C felony unless committed under subdivision (3) of subsection 1 of this section in which case it is a class D felony **or unless committed under subdivision (4) of subsection 1 of this section in which case it is a class A misdemeanor.**

3. [As used in this section:

(1) The term "threat" means an express or implied threat but does not include a report made in good faith for the purpose of preventing harm; and

(2) The term "catastrophe" is defined by section 569.070, RSMo] **For the purpose of this section, "threat" includes an express or implied threat.**

4. **A person who acts in good faith with the purpose to prevent harm does not commit a crime pursuant to this section.**

575.080. FALSE REPORTS. — 1. A person commits the crime of making a false report if he knowingly:

(1) Gives false information to [a law enforcement officer] **any person** for the purpose of implicating another person in a crime; or

(2) Makes a false report to a law enforcement officer that a crime has occurred or is about to occur; or

(3) Makes a false report or causes a false report to be made to a law enforcement officer, security officer, fire department or other organization, official or volunteer, which deals with emergencies involving danger to life or property that a fire or other incident calling for an emergency response has occurred **or is about to occur.**

2. It is a defense to a prosecution under subsection 1 of this section that the actor retracted the false statement or report before the law enforcement officer or any other person took substantial action in reliance thereon.

3. The defendant shall have the burden of injecting the issue of retraction under subsection 2 of this section.

4. Making a false report is a class B misdemeanor.

576.080. SUPPORTING TERRORISM—DEFINITION OF MATERIAL SUPPORT—PENALTY. — 1. **A person commits the crime of supporting terrorism if such person knowingly provides material support to any organization designated as a foreign terrorist organization pursuant to 8 U.S.C. 1189, as amended and acts recklessly with regard to whether such organization had been designated as a foreign terrorist organization pursuant to 8 U.S.C. 1189.**

2. **For the purpose of this section, "material support" includes currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation and other physical assets, except medicine or religious materials.**

3. **Supporting terrorism is a class C felony.**

578.008. AGROTERRORISM, CRIME OF — PENALTY — DEFENSES. — 1. A person commits the crime of [spreading disease to livestock or animals] **agroterrorism** if [that] **such** person purposely spreads any type of contagious, communicable or infectious disease among **crops, poultry**, livestock as defined in section 267.565, RSMo, or other animals.

2. [Spreading disease to livestock or animals] **Agroterrorism** is a class D felony unless the damage to **crops, poultry**, livestock or animals is ten million dollars or more in which case it is a class B felony.

3. It shall be a defense to the crime of [spreading disease to livestock or animals] **agroterrorism** if such spreading is consistent with medically recognized therapeutic procedures or done in the course of legitimate, professional scientific research.

610.021. CLOSED MEETINGS AND CLOSED RECORDS AUTHORIZED WHEN, EXCEPTIONS.

— Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:

(1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record;

(2) Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public within seventy-two hours after execution of the lease, purchase or sale of the real estate;

(3) Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body must be made available with a record of how each member voted to the public within seventy-two hours of the close of the meeting where such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two-hour period before such decision is made available to the public. As used in this subdivision, the term "personal information" means information relating to the performance or merit of individual employees;

(4) The state militia or national guard or any part thereof;

(5) Nonjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment;

(6) Scholastic probation, expulsion, or graduation of identifiable individuals, including records of individual test or examination scores; however, personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years;

(7) Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again;

(8) Welfare cases of identifiable individuals;

(9) Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups;

(10) Software codes for electronic data processing and documentation thereof;

(11) Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid;

(12) Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected;

(13) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such;

(14) Records which are protected from disclosure by law;

(15) Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest;

(16) Records relating to municipal hot lines established for the reporting of abuse and wrongdoing;

(17) Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; [and]

(18) [In preparation for and implementation of electric restructuring, a municipal electric utility may close that portion of its financial records and business plans which contains information regarding the name of the suppliers of services to said utility and the cost of such services, and the records and business plans concerning the municipal electric utility's future marketing and service expansion areas. However, this exception shall not be construed to limit access to other records of a municipal electric utility, including but not limited to the names and addresses of its business and residential customers, its financial reports, including but not limited to its budget, annual reports and other financial statements prepared in the course of business, and other records maintained in the course of doing business as a municipal electric utility. This exception shall become null and void if the state of Missouri fails to implement by December 31, 2001, electric restructuring through the adoption of statutes permitting the same in this state] **A municipal utility receiving a public records request for information about existing or proposed security systems and structural plans of real property owned or leased by the municipal utility, the public disclosure of which would threaten public safety, shall within three business days act upon such public records request, pursuant to section 610.023. Records related to the procurement of or expenditures relating to security systems shall be open except to the extent provided in this section;**

(19) Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, the public disclosure of which would threaten public safety. Records related to the procurement of or expenditures relating to security systems shall be open except to the extent provided in this section. When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records. This exception shall sunset on December 31, 2006;

(20) Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network, of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network, shall be open except to the extent provided in this section; and

(21) Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body.

[542.400. DEFINITIONS. — As used in sections 542.400 to 542.424, the following words and phrases mean:

(1) "Aggrieved person", a person who was a party to any intercepted wire communication or a person against whom the interception was directed;

(2) "Communication common carrier", an individual or corporation undertaking to transport messages for compensation;

(3) "Contents", when used with respect to any wire communication, includes any information concerning the identity of the parties, the substance, purport, or meaning of that communication;

(4) "Court of competent jurisdiction", any circuit court having general criminal jurisdiction within the territorial jurisdiction where the communication is to be intercepted including any circuit judge specially assigned by the supreme court of Missouri pursuant to section 542.404;

(5) "Electronic, mechanical, or other device", any device or apparatus which can be used to intercept a wire communication other than:

(a) Any telephone or telegraph instrument, equipment or facility, or any component thereof, owned by the user or furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or being used by a communications common carrier in the ordinary course of its business or by an investigative office or law enforcement officer in the ordinary course of his duties; or

(b) A hearing aid or similar device being used to correct subnormal hearing to not better than normal;

(6) "Intercept", the aural acquisition of the contents of any wire communication through the use of any electronic or mechanical device, including but not limited to interception by one spouse of another spouse;

(7) "Investigative officer" or "law enforcement officer or agency", any officer or agency of this state or a political subdivision of this state, who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in sections 542.400 to 542.424, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;

(8) "Oral communication", any communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation;

(9) "Person", any employee, or agent of this state or political subdivision of this state, and any individual, partnership, association, joint stock company, trust, or corporation;

(10) "Prosecuting attorney", the elected prosecuting attorney of the county or the circuit attorney of any city not contained within a county;

(11) "State", state of Missouri and political subdivisions of the state;

(12) "Wire communication", any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception including the use of such connection in a switching station furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of local, state or interstate communications.]

[542.402. PENALTY FOR ILLEGAL WIRETAPPING, PERMITTED ACTIVITIES. — 1. Except as otherwise specifically provided in sections 542.400 to 542.424, a person is guilty of a class D felony and upon conviction shall be punished as provided by law, if such person:

(1) Knowingly intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire communication;

(2) Knowingly uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when such device transmits communications by radio or interferes with the transmission of such communication; provided, however, that nothing in sections 542.400 to 542.424 shall be construed to prohibit the use by law enforcement officers of body microphones and transmitters in undercover investigations for the acquisition of evidence and the protection of law enforcement officers and others working under their direction in such investigations;

(3) Knowingly discloses, or endeavors to disclose, to any other person the contents of any wire communication, when he knows or has reason to know that the information was obtained through the interception of a wire communication in violation of this subsection; or

(4) Knowingly uses, or endeavors to use, the contents of any wire communication, when he knows or has reason to know that the information was obtained through the interception of a wire communication in violation of this subsection.

2. It is not unlawful under the provisions of sections 542.400 to 542.424:

(1) For an operator of a switchboard, or an officer, employee, or agent of any communication common carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the carrier of such communication, however, communication common carriers shall not utilize service observing or random monitoring except for mechanical or service quality control checks;

(2) For a person acting under law to intercept a wire or oral communication, where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception;

(3) For a person not acting under law to intercept a wire communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act.]

[542.404. APPLICATION FOR AN ORDER — AUTHORIZATION BY ATTORNEY GENERAL — APPROVAL BY JUDGE, PROBABLE CAUSE REQUIRED. — 1. The elected prosecuting attorney of the county with the written authorization of the attorney general of the state of Missouri may make application for an order authorizing the interception of a wire communication.

The supreme court of Missouri, upon notice that the attorney general of the state of Missouri has authorized application for an interception of a wire communication, shall appoint a circuit court from a circuit other than the circuit where the application originates to approve or deny the application and to issue any necessary orders. Such court may grant in conformity with sections 542.400 to 542.424, an order authorizing the interception of wire communications by the law enforcement agency having responsibility for the investigation of the offense if there is probable cause to believe that the interception may provide evidence of:

(1) A felony which involves the manufacture, importation, receiving, possession, buying, selling, prescription, administration, dispensation, distribution, compounding or otherwise having in a person's control any controlled substance, as the term "controlled substance" is defined by section 195.010, RSMo; or

(2) Any conspiracy to commit any of the offenses listed in subdivision (1) of this subsection.

2. Any order entered pursuant to the provisions of sections 542.400 to 542.424 shall require live monitoring by appropriate law enforcement personnel of the interception of any wire communication.]

[542.406. DISCLOSURE OF CONTENTS — PRIVILEGED COMMUNICATIONS. — 1. Any investigative officer or law enforcement officer who, by any means authorized by sections 542.400 to 542.424, has lawfully obtained knowledge of the contents of any wire communication, or evidence derived therefrom, may disclose such contents to another investigative officer or law enforcement officer to the extent that such disclosure is necessary to the proper performance of the official duties of the officer making or receiving the disclosure for investigative purposes only.

2. Any investigative officer or law enforcement officer who, by any means authorized by sections 542.400 to 542.424, has lawfully obtained knowledge of the contents of any wire or oral communication, or evidence derived therefrom, may use such contents to the extent such use is necessary to the proper performance of his official duties.

3. Any person who has received, by any means authorized by sections 542.400 to 542.424, any information concerning a wire communication, or evidence derived therefrom, intercepted in accordance with the provisions of sections 542.400 to 542.424 shall disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any criminal proceeding, including deposition in any court or in any grand jury proceeding, subject to the rules of evidence.

4. No otherwise privileged wire communication intercepted in accordance with, or in violation of, the provisions of sections 542.400 to 542.424 shall lose its privileged character and shall be suppressed upon motion.]

[542.408. APPLICATION, CONTENTS — EX PARTE ORDER ISSUED, WHEN, CONTENTS, EXTENSIONS GRANTED, WHEN — REPORTS, COURT MAY REQUIRE, WHEN — PEN REGISTERS, WHO MAY REQUEST — COMMUNICATION, COMMON CARRIERS MAY PROVIDE AID, IMMUNITY FROM SUIT, COMPENSATION. — 1. Each application for an order authorizing or approving the interception of a wire communication shall be made in writing and shall be submitted to the attorney general for his review and approval. If the attorney general approves the application, he shall join such application, which shall be submitted upon oath or affirmation to a court of competent jurisdiction and shall state the applicant's authority to make such application. Each application shall include the following information:

(1) The identity of the prosecuting attorney making the application together with the identities of the law enforcement agency or agencies that are to conduct the interception;

(2) A full and complete statement of the facts and circumstances relied upon by the applicant to justify his belief that an order should be issued, including:

(a) Details as to the particular offense that has been, is being, or is about to be committed;

(b) A particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted;

(c) A particular description of the type of communications sought to be intercepted; and

(d) The identity of the person and employment, if known, committing the offense and whose communications are to be intercepted;

(e) That the application is sought solely for detection of:

a. A felony which involves the manufacture, importation, receiving, possession, buying, selling, prescription, administration, dispensation, distribution, compounding or otherwise having in a person's control any controlled substance, as the term "controlled substance" is defined by section 195.010, RSMo; or

b. Any conspiracy to commit any of the offenses listed in subparagraph a of this paragraph;

(3) A full and complete statement as to whether other investigative procedures have been tried and failed, or why they reasonably appear to be unlikely to succeed if tried, or to be too dangerous;

(4) A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for the interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

(5) A full and complete statement of the facts concerning all previous applications known or available to the individual authorizing and making the application, made to any court for authorization to intercept, or for approval of interceptions of, wire communications involving any of the same persons, facilities or places specified in the application, and the action taken by the court on each such application;

(6) Where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or an explanation of the failure to obtain such results; and

(7) A statement that adequate resources are available to perform the interception and the estimated number of persons required to accomplish the interception.

2. The court may require the applicant to furnish additional testimony or documentary evidence in support of the application.

3. Upon such application the court may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire communications within the territorial jurisdiction of the court, if the court determines on the basis of the facts submitted by the applicant that:

(1) Probable cause exists to believe that an individual is committing, has committed, or is about to commit a particular offense enumerated in section 542.404;

(2) Probable cause exists to believe that particular communications concerning that offense will be obtained through such interception;

(3) Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous; and

(4) Probable cause exists to believe that the facilities from which, or the place where, the wire communications are to be intercepted are being used, or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person.

4. Each order authorizing or approving the interception of any wire communication shall specify:

(1) The identity of the person and employment, if known, whose communications are to be intercepted;

(2) The nature and location of the communication facilities as to which, or the place where, authority to intercept is granted;

(3) A particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

(4) The identity of the agency authorized to intercept the communications, and of the person authorizing the application;

(5) The period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

5. No order entered under this section may authorize or approve the interception of any wire communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection 1 of this section and the court making the findings required by subsection 3 of this section. The period of

extension shall be no longer than the court deems necessary to achieve the purposes for which it was granted and in no event longer than thirty days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under sections 542.400 to 542.424, and shall terminate upon attainment of the authorized objective, or in any event in thirty days.

6. Whenever an order authorizing interception is entered pursuant to the provisions of sections 542.400 to 542.424, the order may require reports to be made to the court who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the court may require, but in no case longer than thirty days.

7. Notwithstanding any other provisions of sections 542.400 to 542.424, any law enforcement officer with the approval of the prosecuting attorney may request an order of an appropriate court whenever reasonable grounds therefor exist to have a pen register placed in effect, which pen register will only determine the phone number to which the call is placed.

8. Notwithstanding any other provision of law to the contrary, communication common carriers, and their officers, employees and agents, may provide information, facilities or technical assistance to persons authorized by law to intercept wire communications, if the communication common carrier, its officers, employees or agents have been provided with a court order directing such assistance signed by the authorizing court. The court order shall set forth the period of time during which the provision of the information, facilities or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No cause of action shall lie in any court against any communication common carrier, its officers, employees, and agents for providing information, facilities or assistance in accordance with the terms of an order under this subsection. Any communication common carrier furnishing such facilities or technical assistance shall be compensated therefor by the prosecuting attorney at the prevailing rates.]

[542.410. RECORDING OF CONTENTS, REQUIRED, HOW, CUSTODY OF, DUPLICATION, DESTRUCTION OF — APPLICATIONS AND ORDERS SEALED BY COURT, DISCLOSURE, WHEN, DESTRUCTION OF — PENALTY — NOTICE TO PERSONS NAMED IN ORDER, WHEN, RIGHT TO INSPECT AND COPY CONTENTS. — 1. The contents of any wire communication intercepted by any means authorized by sections 542.400 to 542.424 shall be recorded on tape or wire or other comparable device. The recording of the contents of any wire or oral communication as required by this section shall be done in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the court issuing such order and shall be sealed under its directions. Custody of the recordings shall be wherever the court orders. The recordings shall not be destroyed except upon an order of the issuing court and in any event shall be kept for ten years. Duplicate recordings shall be made for use for disclosure pursuant to the provisions of subsections 1 and 2 of section 542.406 for investigations and discovery in accordance with applicable supreme court rules. The presence of the seal provided for by subsection 2 of this section, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire communication or evidence derived therefrom under the provisions of subsection 3 of section 542.406.

2. Applications made and orders granted under sections 542.400 to 542.424 shall be sealed by the court. Custody of the applications and orders shall be wherever the court directs. Such applications and orders shall be disclosed only upon a showing of good cause before a court of competent jurisdiction and shall not be destroyed except on order of the issuing or denying court, and in any event shall be kept for ten years.

3. Any violation of the provisions of this section shall be punishable as a class A misdemeanor.

4. Within a reasonable time but not later than ninety days after the filing of an application for an order of approval under the provisions of sections 542.400 to 542.424 or the termination of the period of an order or extensions thereof, whichever is later, the issuing or denying court shall cause to be served, on the persons named in the order or the application, and such other parties to intercepted communications an inventory which shall include notice of:

- (1) The fact of the entry of the order or the application;
- (2) The date of the entry and the period of authorized, approved interception;
- (3) The fact that during the period oral communications were or were not intercepted; and
- (4) The nature of said conversations.

The court, upon the filing of a motion, shall make available to such person or his counsel for inspection and copying such intercepted communications, applications and orders.]

[542.412. CONTENTS MAY BE USED AS EVIDENCE, WHEN — DISCLOSURE OF ADDITIONAL EVIDENCE TO DEFENDANT. — 1. The contents of any intercepted wire communications or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in federal or state court nor in any administrative proceeding unless each party, in compliance with supreme court rules relating to discovery in criminal cases, hearings and proceedings, has been furnished with a copy of the court order and accompanying application under which the interception was authorized or approved and a transcript of any intercepted wire communication or evidence derived therefrom.

2. If the defense in its request designates material or information not in the possession or control of the state, but which is, in fact, in the possession or control of other governmental personnel, the state shall use diligence and make good faith efforts to cause such materials to be made available to the defendant's counsel, and if the state's efforts are unsuccessful and such material or other governmental personnel are subject to the jurisdiction of the court, the court, upon request, shall issue suitable subpoenas or orders to cause such material or information to be made available to the state for disclosure to the defense.]

[542.414. SUPPRESSION OF CONTENTS, GROUNDS — RIGHT OF STATE TO APPEAL SUPPRESSION MOTION, WHEN. — 1. Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, the state, or a political subdivision thereof, may move to suppress the contents of any intercepted wire communication, or evidence derived therefrom, on the grounds that:

- (1) The communication was unlawfully intercepted;
- (2) The order of authorization or approval under which it was intercepted is insufficient on its face;
- (3) The interception was not made in conformity with the order of authorization or approval; or

(4) The communication was intercepted in violation of the provisions of the Constitution of the United States or the state of Missouri or in violation of a state statute. Such motion shall be made before the trial, hearing, or proceeding unless there was no reasonable opportunity to make such motion or the person was not aware of the existence of grounds for the motion. If the motion is granted, the contents of the intercepted wire communication, or evidence derived therefrom or the contents of any communication intercepted as a result of any extension of the original order authorizing or approving the interception of wire communication, and any evidence derived therefrom, shall be treated as having been obtained in violation of sections 542.400 to 542.424.

2. In addition to any other right to appeal, the state shall have the right to appeal from an order granting a motion to suppress made under subsection 1 of this section if the prosecuting attorney shall certify to the court or other official granting such motion that the appeal be taken within thirty days after the date the order was entered and shall be diligently prosecuted.]

[542.416. REPORTS TO STATE COURTS ADMINISTRATOR REQUIRED, WHEN, CONTENTS, WHO MUST REPORT — STATE COURTS ADMINISTRATOR TO REPORT TO GENERAL ASSEMBLY, WHEN — RULES AND REGULATIONS. — 1. Within thirty days after the expiration of an order or each extension thereof entered pursuant to the provisions of section 542.408, the issuing court shall report to the state courts administrator:

- (1) The fact that an order or extension was applied for;
- (2) The kind of order or extension applied for;
- (3) The fact that the order or extension was granted as applied for, was modified, or was denied;
- (4) The period of interceptions authorized by the order, and the number and duration of any extensions of the order;
- (5) The offense specified in the order or application, or extension of an order;
- (6) The identity of the applying investigative officer or law enforcement officer and agency making the application and the person authorizing the application; and
- (7) The nature of the facilities from which or the place where communications were to be intercepted.

2. In January of each year, the principal prosecuting attorney for any political subdivision of the state shall report to the state courts administrator:

- (1) The information required by subdivisions (1) through (7) of subsection 1 of this section with respect to each application for an order or extension made during the preceding calendar year;
- (2) A general description of the interceptions made under such order or extension, including:
 - (a) The approximate nature and frequency of incriminating communications intercepted;
 - (b) The approximate nature and frequency of other communications intercepted;
 - (c) The approximate number of persons whose communications were intercepted; and
 - (d) The approximate nature, amount, and cost of the manpower and other resources used in the interceptions;
- (3) The number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;
- (4) The number of trials resulting from such interceptions;
- (5) The number of motions to suppress made with respect to such interceptions, and the number granted or denied;
- (6) The number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions; and
- (7) The information required by subdivisions (2) through (6) of this subsection with respect to orders or extensions obtained in the preceding calendar year.

3. In April of each year the state courts administrator shall transmit to the Missouri general assembly a full and complete report concerning the number of applications for orders authorizing or approving the interception of wire communications and the number of orders and extensions granted or denied during the preceding calendar year. Such report shall include a summary and analysis of the data required to be filed with the state courts administrator by subsections 1 and 2 of this section. The state courts administrator may promulgate rules and regulations dealing with the content and form of the reports required to be filed by subsections 1 and 2 of this section.]

[542.418. USE OF CONTENTS OF WIRETAP IN CIVIL ACTION, LIMITATIONS ON — ILLEGAL WIRETAP, CAUSE OF ACTION, DAMAGES, ATTORNEY FEES AND COSTS — GOOD FAITH RELIANCE ON COURT ORDER A PRIMA FACIE DEFENSE. — 1. The contents of any wire communication or evidence derived therefrom shall not be received in evidence or otherwise

disclosed in any civil or administrative proceeding, except in civil actions brought pursuant to this section.

2. Any person whose wire communication is intercepted, disclosed, or used in violation of sections 542.400 to 542.424 shall:

(1) Have a civil cause of action against any person who intercepts, discloses, or uses, or procures any other person to intercept, disclose, or use such communications; and

(2) Be entitled to recover from any such person:

(a) Actual damages, but not less than liquidated damages computed at the rate of one hundred dollars a day for each day of violation or ten thousand dollars whichever is greater;

(b) Punitive damages on a showing of a willful or intentional violation of sections 542.400 to 542.424; and

(c) A reasonable attorney's fee and other litigation costs reasonably incurred.

3. A good faith reliance on a court order or on the provisions of section 542.408 shall constitute a prima facie defense to any civil or criminal action brought under sections 542.400 to 542.424.

4. Nothing contained in this section shall limit any cause of action available prior to August 28, 1989.]

[542.420. EVIDENCE OBTAINED IN VIOLATION OF LAW MAY NOT BE USED. — Whenever any wire communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a state, or a political subdivision thereof if the disclosure of that information would be in violation of sections 542.400 to 542.424.]

[542.422. INJUNCTIONS OF FELONY VIOLATIONS OF SECTIONS 542.400 TO 542.424, PROCEDURE. — Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a felony violation of sections 542.400 to 542.424, the attorney general may initiate a civil action in a circuit court to enjoin such violation. The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the state or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the rules of civil procedure except that, if an indictment has been returned against the respondent, discovery is governed by the rules of criminal procedure.]

Approved July 1, 2002

SB 714 [HCS SB 714]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows the state to temporarily license certain health care practitioners during a state public health emergency.

AN ACT to repeal section 190.500, RSMo, relating to the declaration of a state public health emergency, and to enact in lieu thereof one new section relating to the same subject.

SECTION

- A. Enacting clause.
190.500. Temporary license — qualified health care professions — declared emergency.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 190.500, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 190.500, to read as follows:

190.500. TEMPORARY LICENSE — QUALIFIED HEALTH CARE PROFESSIONS — DECLARED EMERGENCY. — **1.** Notwithstanding any other provision of law to the contrary, a temporary license may be issued for no more than a twelve-month period by the appropriate licensing board to any otherwise qualified health care professional licensed **and in good standing** in another state and who meets such other requirements as the licensing board may prescribe by rule and regulation, if the health care professional:

(1) Is acting pursuant to federal military orders under Title X for active duty personnel or Title XXXII for [military reservists] **national guard members**; and

(2) Is enrolled in an accredited training program for trauma treatment and disaster response in a hospital in this state; **or**

(3) **If the health care professional is acting pursuant to the governor's declaration of an emergency as defined in section 44.010, RSMo, such temporary licensure shall be issued pursuant to this subdivision for a two-week period and, upon license verification, may be reissued every two weeks thereafter.**

2. Licensure information and confirmation of health care professionals acting pursuant to this section may be obtained by any available means, including electronic mail.

3. For purposes of this section, the term "health care professional" shall have the same meaning as such term is defined in section 383.130, RSMo.

Approved July 2, 2002

SB 718 [HCS SB 718]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Mandates weekly Pledge of Allegiance for school children.

AN ACT to repeal section 171.021, RSMo, and to enact in lieu thereof one new section relating to reciting the Pledge of Allegiance in public schools.

SECTION

- A. Enacting clause.
171.021. Schools receiving public moneys to display United States flag — requirement to recite Pledge of Allegiance once a week.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 171.021, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 171.021, to read as follows:

171.021. SCHOOLS RECEIVING PUBLIC MONEYS TO DISPLAY UNITED STATES FLAG — REQUIREMENT TO RECITE PLEDGE OF ALLEGIANCE ONCE A WEEK. — **1.** Every school in this state which is supported in whole or in part by public moneys, during the hours while school

is in session, shall display in some prominent place either upon the outside of the school building or upon a pole erected in the school yard the flag of the United States of America.

2. Every school in this state which is supported in whole or in part by public moneys shall ensure that the Pledge of Allegiance to the flag of the United States of America is recited in at least one scheduled class of every pupil enrolled in that school no less often than once per week. No student shall be required to recite the Pledge of Allegiance.

Approved July 3, 2002

SB 720 [SB 720]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Limits the bond amount for deputies and assistants appointed by collectors and treasurer ex officio collectors.

AN ACT to repeal sections 52.300 and 54.330, RSMo, relating to bonds for deputies for county collectors and treasurer ex officio collectors, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

A. Enacting clause.

52.300. Deputies and assistants — appointment — powers — collector responsible for — bond requirements.

54.330. Bonds of ex officio collectors — bond requirements.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 52.300 and 54.330, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 52.300 and 54.330, to read as follows:

52.300. DEPUTIES AND ASSISTANTS — APPOINTMENT — POWERS — COLLECTOR RESPONSIBLE FOR — BOND REQUIREMENTS. — Collectors may appoint deputies and assistants, by an instrument in writing, duly signed, and may also revoke any such appointment at their pleasure[, and may require bonds or other securities from such deputies to secure themselves; and]. Each such deputy **or assistant** shall have like authority, in every respect, to collect the taxes levied or assessed within the portion of the county, town, district or city assigned to [him] **such deputy or assistant**, which, by law, is vested in the collector [himself]; but each collector shall, in every respect, be responsible to the state, county, towns, cities, districts and individuals, companies, corporations, as the case may be, for all moneys collected, and for every act done by any [of his deputies whilst acting as such] **deputy or assistant when acting as a deputy or assistant**, and for any omission of duty of such deputy **or assistant**. **Before entering upon the duties for which they are employed, deputies and assistants shall give bond and security to the satisfaction of the collector. The bond for each individual deputy or assistant shall not exceed one-half of the amount of the maximum bond required for any collector pursuant to sections 52.020 to 52.100. The official bond required pursuant to this section shall be a surety bond with a surety company authorized to do business in this state. The premium of the bond shall be paid by the county or city being protected.** Any bond or security taken from a deputy **or assistant** by a collector, pursuant to this chapter, shall be available to such collector[, his] **or the collector's** representatives and sureties, to indemnify them for any loss or damage accruing from any act of such deputy.

54.330. BONDS OF EX OFFICIO COLLECTORS — BOND REQUIREMENTS. — 1. County treasurers, as ex officio county collectors of counties under township organization, shall be required to give bonds as other county collectors under the general revenue law.

2. Before entering upon the duties for which they are employed, deputies and assistants employed in the office of any treasurer ex officio collector shall give bond and security to the satisfaction of the treasurer ex officio collector. The bond for each individual deputy or assistant shall not exceed one-half of the amount of the maximum bond required for any treasurer ex officio collector. The official bond required pursuant to this section shall be a surety bond with a surety company authorized to do business in this state. The premium of the bond shall be paid by the county or city being protected.

Approved June 21, 2002

SB 722 [HS HCS SCS SB 722]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows individuals to obtain a temporary administrator certificate.

AN ACT to repeal sections 168.071 and 168.081, RSMo, and to enact in lieu thereof three new sections relating to certificates of license to teach, with an expiration date for a certain section.

SECTION

A. Enacting clause.

168.071. Revocation, suspension or refusal of certificate or license, grounds — procedure — appeal.

168.081. Teaching or acting as school administrator without certificate prohibited.

168.083. Temporary administrator certificate granted, when — mentoring program developed — expiration date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 168.071 and 168.081, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 168.071, 168.081, and 168.083, to read as follows:

168.071. REVOCATION, SUSPENSION OR REFUSAL OF CERTIFICATE OR LICENSE, GROUNDS—PROCEDURE—APPEAL. — 1. [The Missouri state board of education may refuse to issue or renew, or may suspend or revoke a certificate of license to teach upon satisfactory proof of incompetency, cruelty, immorality, drunkenness, neglect of duty, or the annulling of a written contract for reasons other than election to the general assembly, with the local board of education without the consent of the majority of the members of the board which is a party to the contract. Charges may be filed by any school district or, at the request of the school district, by the office of the attorney general if the school district has been identified as financially stressed pursuant to section 161.520, RSMo. If the underlying conduct or actions which are the basis for charges filed under this subsection are also the subject of a pending criminal charge against the person holding such certificate, and that person requests in writing a delayed hearing on advice of counsel under the fifth amendment of the Constitution of the United States, no hearing shall be held until after final disposition of the criminal charge.

2. The state board of education may refuse to issue or renew, or may, upon hearing, suspend or revoke a certificate of license to teach if a certificate holder or applicant for a

certificate has pleaded to or been found guilty of a felony or crime involving moral turpitude under the laws of this state or any other state or of the United States, or any other country, whether or not the sentence is imposed.

3. The certificate of license to teach shall be revoked or, in the case of an applicant, a certificate shall not be issued, if the certificate holder or applicant has pleaded guilty to or been found guilty of any of the following offenses established pursuant to Missouri law or offenses of a similar nature established under the laws of any other state or of the United States, or any other country, whether or not the sentence is imposed:

(1) Any dangerous felony as defined in section 556.061, RSMo, or murder in the first degree;

(2) Any of the following sexual offenses: rape; statutory rape in the first degree; statutory rape in the second degree; sexual assault; forcible sodomy; statutory sodomy in the first degree; statutory sodomy in the second degree; child molestation in the first degree; child molestation in the second degree; deviate sexual assault; sexual misconduct involving a child; sexual misconduct in the first degree; or sexual abuse;

(3) Any of the following offenses against the family and related offenses: incest; abandonment of child in the first degree; abandonment of child in the second degree; endangering the welfare of a child in the first degree; abuse of a child; child used in a sexual performance; promoting sexual performance by a child; or trafficking in children; and

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree; promoting child pornography in the first degree; promoting obscenity in the second degree when the penalty is enhanced to a class D felony; promoting child pornography in the second degree; possession of child pornography; furnishing pornographic materials to minors; coercing acceptance of obscene material; or sale or rental to persons under seventeen.

4. The certificate holder whose certificate was revoked pursuant to subsection 3 of this section may appeal such revocation to the state board of education. The certificate holder whose certificate has been revoked pursuant to subsection 3 of this section must notify the commissioner of education of the intent to appeal by advising the commissioner within thirty days of the certificate holder's plea of guilty or finding of guilt of the intent to appeal. Failure of the certificate holder to notify the commissioner of the intent to appeal waives all rights to appeal said revocation. Upon notice of the certificate holder's intent to appeal, an appeal hearing shall be held by a hearing officer designated by the commissioner of education, with the final decision made by the state board of education, based upon the record of that hearing. The certificate holder shall be given not less than thirty days' notice of the hearing, and an opportunity to be heard by the hearing officer, together with witnesses. In those cases where the plea of guilty to or finding of guilt of any of the offenses listed in subsection 3 of this section involve a minor child, testimony from the minor child involved in the complaint shall not be required. The hearing officer shall accept into the record the transcript of any testimony of a child involved in such offense if such testimony was admitted in any court hearing. Subsection 6 of this section shall apply to any final decision made by the state board of education pursuant to this subsection.

5. The charges filed with the state board of education under this section shall be in writing and plainly and fully specify the basis for the charges. The charges shall be signed by the chief administrative officer of the district or by the president of the board of education when so authorized by a majority of the board. The certificate holder shall be given not less than thirty days' notice of the hearing, and an opportunity to be heard, together with witnesses.

6. The certificate holder may appeal to the circuit court at any time within thirty days after receipt of the final decision of the state board of education. The appeal shall be heard with a jury at the option of either the certificate holder or the party filing the charges, and shall be tried de novo, affirming or denying the action of the state board of education. Costs shall be taxed against the appellant if the judgment of the state board of education is affirmed. In those cases where the charges allege immorality by the certificate holder involving a minor child, such case shall

be heard by the court without a jury and any testimony from the minor child involved in the complaint shall be taken directly from the hearing record taken on behalf of the state board of education.

7. The issuance of a certificate of license to teach to an individual who has been convicted of a felony or crime involving moral turpitude shall be issued only upon motion of the state board of education adopted by a unanimous affirmative vote of those members present and voting.] **The state board of education may refuse to issue or renew a certificate, or may, upon hearing, discipline the holder of a certificate of license to teach for the following causes:**

(1) A certificate holder or applicant for a certificate has pleaded to or been found guilty of a felony or crime involving moral turpitude under the laws of this state, any other state, of the United States, or any other country, whether or not sentence is imposed;

(2) The certification was obtained through use of fraud, deception, misrepresentation or bribery;

(3) There is evidence of incompetence, immorality, or neglect of duty by the certificate holder;

(4) A certificate holder has been subject to disciplinary action relating to certification issued by another state, territory, federal agency, or country upon grounds for which discipline is authorized in this section; or

(5) If charges are filed by the local board of education, based upon the annulling of a written contract with the local board of education, for reasons other than election to the general assembly, without the consent of the majority of the members of the board that is a party to the contract.

2. A public school district may file charges seeking the discipline of a holder of a certificate of license to teach based upon any cause or combination of causes outlined in subsection 1 of this section, including annulment of a written contract. Charges shall be in writing, specify the basis for the charges, and be signed by the chief administrative officer of the district, or by the president of the board of education as authorized by a majority of the board of education. The board of education may also petition the office of the attorney general to file charges on behalf of the school district for any cause other than annulment of contract, with acceptance of the petition at the discretion of the attorney general.

3. The department of elementary and secondary education may file charges seeking the discipline of a holder of a certificate of license to teach based upon any cause or combination of causes outlined in subsection 1 of this section, other than annulment of contract. Charges shall be in writing, specify the basis for the charges, and be signed by legal counsel representing the department of elementary and secondary education.

4. If the underlying conduct or actions which are the basis for charges filed pursuant to this section are also the subject of a pending criminal charge against the person holding such certificate, the certificate holder may request, in writing, a delayed hearing on advice of counsel under the fifth amendment of the Constitution of the United States. Based upon such a request, no hearing shall be held until after a trial has been completed on this criminal charge.

5. The certificate holder shall be given not less than thirty days' notice of any hearing held pursuant to this section.

6. Other provisions of this section notwithstanding, the certificate of license to teach shall be revoked or, in the case of an applicant, a certificate shall not be issued, if the certificate holder or applicant has pleaded guilty to or been found guilty of any of the following offenses established pursuant to Missouri law or offenses of a similar nature established under the laws of any other state or of the United States, or any other country, whether or not the sentence is imposed:

(1) Any dangerous felony as defined in section 556.061, RSMo, or murder in the first degree;

(2) Any of the following sexual offenses: rape; statutory rape in the first degree; statutory rape in the second degree; sexual assault; forcible sodomy; statutory sodomy in the first degree; statutory sodomy in the second degree; child molestation in the first degree; child molestation in the second degree; deviate sexual assault; sexual misconduct involving a child; sexual misconduct in the first degree; or sexual abuse;

(3) Any of the following offenses against the family and related offenses: incest; abandonment of child in the first degree; abandonment of child in the second degree; endangering the welfare of a child in the first degree; abuse of a child; child used in a sexual performance; promoting sexual performance by a child; or trafficking in children; and

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree; promoting obscenity in the second degree when the penalty is enhanced to a class D felony; promoting child pornography in the first degree; promoting child pornography in the second degree; possession of child pornography in the first degree; possession of child pornography in the second degree; furnishing child pornography to a minor; furnishing pornographic materials to minors; or coercing acceptance of obscene material.

7. The certificate holder whose certificate was revoked pursuant to subsection 6 of this section may appeal such revocation to the state board of education. Notice of this appeal must be received by the commissioner of education within ninety days of notice of revocation pursuant to this subsection. Failure of the certificate holder to notify the commissioner of the intent to appeal waives all rights to appeal the revocation. Upon notice of the certificate holder's intent to appeal, an appeal hearing shall be held by a hearing officer designated by the commissioner of education, with the final decision made by the state board of education, based upon the record of that hearing. The certificate holder shall be given not less than thirty days' notice of the hearing, and an opportunity to be heard by the hearing officer, together with witnesses.

8. In the case of any certificate holder who has surrendered or failed to renew his or her certificate of license to teach, the state board of education may refuse to issue or renew, or may suspend or revoke, such certificate for any of the reasons contained in this section.

9. In those cases where the charges filed pursuant to this section are based upon an allegation of misconduct involving a minor child, the hearing officer may accept into the record the sworn testimony of the minor child relating to the misconduct received in any court or administrative hearing.

10. Hearings, appeals or other matters involving certificate holders, licensees or applicants pursuant to this section may be informally resolved by consent agreement or agreed settlement or voluntary surrender of the certificate of license pursuant to the rules promulgated by the state board of education.

11. The final decision of the state board of education is subject to judicial review pursuant to sections 536.100 to 536.140, RSMo.

12. A certificate of license to teach to an individual who has been convicted of a felony or crime involving moral turpitude, whether or not sentence is imposed, shall be issued only upon motion of the state board of education adopted by a unanimous affirmative vote of those members present and voting.

168.081. TEACHING OR ACTING AS SCHOOL ADMINISTRATOR WITHOUT CERTIFICATE PROHIBITED. — After September 1, 1988, no person without a valid Missouri certificate shall:

(1) Engage in the practice of teaching or the performance of education duties in grades kindergarten through twelve in any public school in the state;

(2) Act as a school administrator in any public school district, **unless such person obtains a temporary administrator certificate pursuant to section 168.083.**

168.083. TEMPORARY ADMINISTRATOR CERTIFICATE GRANTED, WHEN — MENTORING PROGRAM DEVELOPED — EXPIRATION DATE. — 1. Any qualified applicant may be granted a temporary administrator certificate upon joint application with a Missouri public school district or accredited nonpublic school which establishes a mentoring program pursuant to subsection 2 of this section. The temporary administrator certificate is limited to the employing Missouri public school district or accredited nonpublic school. An applicant for a temporary administrator certificate may apply for only one area of certification at a time.

2. The employing Missouri public school district or accredited nonpublic school shall develop a mentoring program to provide adequate support to the holder of the temporary administrator certificate to ensure proper transition into the administrative environment.

3. The temporary administrator certificate of license to teach is valid for up to one school year. It may be renewed annually for up to four subsequent years by joint application from the certificate holder and employing Missouri public school district or accredited nonpublic school upon demonstration that the applicant is making continuous, measurable progress toward obtaining a full administrator certificate of license to teach. The state board of education shall establish specific standards as to what constitutes making measurable progress toward obtaining a full administrator certificate; provided that a full administrator certificate at that grade level shall be required after the fifth year of a temporary administrator certificate in order to retain administrator certification.

4. Applications for a Missouri temporary administrator certificate shall be submitted on forms provided and approved by the state board of education.

5. The state board of education shall promulgate rules and regulations for the issuance and renewal of temporary administrator certificates. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

6. As used in this section, the term "qualified applicant" shall mean a person who:

- (1)** Holds a valid certificate of license to teach in Missouri;
- (2)** Has a master's degree or is currently enrolled in a master's degree program; and
- (3)** Has at least five years of teaching experience in a public school, in an accredited nonpublic school, or in a combination of such schools at the grade level for which the temporary administrator certificate is sought.

7. The provisions of this section shall expire August 28, 2012.

Approved July 2, 2002

SB 726 [SB 726]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Moves Emergency Services Day to September 11th.

AN ACT to repeal section 9.130, RSMo, relating to Emergency Services Day, and to enact in lieu thereof one new section relating to the same subject.

SECTION

- A. Enacting clause.
9.130. Emergency Services Day observed, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 9.130, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 9.130, to read as follows:

9.130. EMERGENCY SERVICES DAY OBSERVED, WHEN. — The [twenty-eighth day of November] **eleventh day of September** of each year shall be known as "Emergency Services Day" and shall be set apart as a day of acknowledging, with special gratitude and profound respect, all public safety personnel, including police, firefighters, ambulance personnel, emergency dispatchers, and corrections officers. The people of this state and all of its political subdivisions are hereby requested to:

- (1) Devote some part of such day to recognizing their respective public safety personnel;
- (2) Make an effort to urge the citizens of their communities to cooperate with police agencies in the reporting of crimes; and
- (3) Cooperate with fire agencies by checking their smoke detectors to assure that such detectors are functional.

Approved July 1, 2002

SB 727 [SCS SB 727 & 703]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises the law regarding tinted windows.

AN ACT to repeal section 307.173, RSMo, and to enact in lieu thereof one new section relating to tinted windows, with a penalty provision and an emergency clause.

SECTION

A. Enacting clause.

307.173. Specifications for sun screening device applied to windshield or windows — permit required, when — exceptions — rules, procedure — violations, penalty — exemptions.

B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 307.173, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 307.173, to read as follows:

307.173. SPECIFICATIONS FOR SUN SCREENING DEVICE APPLIED TO WINDSHIELD OR WINDOWS — PERMIT REQUIRED, WHEN — EXCEPTIONS — RULES, PROCEDURE — VIOLATIONS, PENALTY — EXEMPTIONS. — 1. [Except as provided in subsections 2 and 6 of this section, no person shall operate any motor vehicle registered in this state on any public highway or street of this state with any manufactured vision-reducing material applied to any portion of the motor vehicle's windshield, sidewings, or windows located immediately to the left and right of the driver which reduces visibility from within or without the motor vehicle. This section shall not prohibit labels, stickers, decalcomania, or informational signs on motor vehicles or the application of tinted or solar screening material to recreational vehicles as defined in section 700.010, RSMo, provided that such material does not interfere with the driver's normal view of the road. This section shall not prohibit factory installed tinted glass, the equivalent replacement thereof or tinting material applied to the upper portion of the motor vehicle's windshield which is normally tinted by the manufacturer of motor vehicle safety glass.

2.] Any person may operate a motor vehicle with [side and rear windows] **front sidewing vents or windows located immediately to the left and right of the driver** that have a sun screening device, in conjunction with safety glazing material, that has a light transmission of thirty-five percent or more plus or minus three percent and a luminous reflectance of thirty-five percent or less plus or minus three percent. **Except as provided in subsection 5 of this section, any sun screening device applied to front sidewing vents or windows located immediately to the left and right of the driver in excess of the requirements of this section shall be prohibited without a permit pursuant to a physician's prescription as described below. A permit to operate a motor vehicle with front sidewing vents or windows located immediately to the left and right of the driver that have a sun screening device, in conjunction with safety glazing material, which permits less light transmission and luminous reflectance than allowed under the requirements of this subsection, may be issued by the department of public safety to a person having a serious medical condition which requires the use of a sun screening device if the permittee's physician prescribes its use. The director of the department of public safety shall promulgate rules and regulations for the issuance of the permit. The permit shall allow operation of the vehicle by any titleholder or relative within the second degree by consanguinity or affinity, which shall mean a spouse, each grandparent, parent, brother, sister, niece, nephew, aunt, uncle, child, and grandchild of a person, who resides in the household. Except as provided in subsection 2 of this section, all sun screening devices applied to the windshield of a motor vehicle are prohibited.**

2. This section shall not prohibit labels, stickers, decalcomania, or informational signs on motor vehicles or the application of tinted or solar screening material to recreational vehicles as defined in section 700.010, RSMo, provided that such material does not interfere with the driver's normal view of the road. This section shall not prohibit factory installed tinted glass, the equivalent replacement thereof or tinting material applied to the upper portion of the motor vehicle's windshield which is normally tinted by the manufacturer of motor vehicle safety glass.

3. [A motor vehicle in violation of this section shall not be approved during any motor vehicle safety inspection required pursuant to sections 307.350 to 307.390.

4.] Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

[5.] 4. Any person who violates the provisions of this section is guilty of a class C misdemeanor.

[6.] 5. Any vehicle licensed with a historical license plate shall be exempt from the requirements of this section.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to clarify the laws regarding tinted windows, this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval.

Approved February 14, 2002

SB 729 [SCS SB 729]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Mortgages may be insured at time loan is made if secured by first lien.

AN ACT to repeal section 443.415, RSMo, relating to mortgage insurance, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

443.415. Mortgage may be insured for certain buyers, amount, requirements.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 443.415, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 443.415, to read as follows:

443.415. MORTGAGE MAY BE INSURED FOR CERTAIN BUYERS, AMOUNT, REQUIREMENTS. — Mortgage insurers may insure a mortgage in an amount not exceeding one hundred **three** percent of the fair market value of the authorized real estate security at the time that the loan is made if secured by a first lien or charge on such real estate security.

Approved June 18, 2002

SB 737 [HCS SCS SB 737]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows 4-H members and parents of 4-H members to obtain special license plates.

AN ACT to amend chapter 301, RSMo, by adding thereto one new section relating to license plates.

SECTION

A. Enacting clause.

301.481. Missouri 4-H special license plate, application, fee.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 301, RSMo, is amended by adding thereto one new section, to be known as section 301.481, to read as follows:

301.481. MISSOURI 4-H SPECIAL LICENSE PLATE, APPLICATION, FEE. — Any person who is a member or a former member or whose child is a member of the Missouri 4-H may apply for motor vehicle license plates for any vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any such person shall make application for the license plates on a form provided by the director of revenue and furnish such proof as a member or member's parent of the Missouri 4-H as the director

may require. Upon payment of a fifteen dollar fee, presentation of all documents and payment of all other fees required by law, the director shall issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "MISSOURI 4-H" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Such plates shall also bear an image of the Missouri 4-H emblem. No additional fee shall be charged for personalization of plates issued pursuant to this section. There shall be no limit on the number of plates issued pursuant to this section.

Approved July 3, 2002

SB 742 [SB 742]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Makes technical correction in law on trusts and estates.

AN ACT to repeal section 469.411, RSMo, relating to trusts and estates, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 362.011. Trust business not engaged in, when — prohibition on use of words "trust company", when.
- 469.411. Determination of unitrust amount — definitions — exclusions to net fair market value of assets — applicability of section to certain trusts.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 469.411, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 362.011 and 469.411, to read as follows:

362.011. TRUST BUSINESS NOT ENGAGED IN, WHEN — PROHIBITION ON USE OF WORDS "TRUST COMPANY", WHEN. — For the purposes of this chapter, a person does not engage in the trust business by:

- (1) The rendering of fiduciary services by an attorney-at-law admitted to the practice of law in this state;
 - (2) Rendering services as a certified or registered public accountant in the performance of duties as such;
 - (3) Acting as a trustee or receiver in bankruptcy;
 - (4) Engaging in the business of an escrow agent;
 - (5) Receiving rents and proceeds of sale as a licensed real estate broker on behalf of the principal;
 - (6) Acting as trustee under a deed of trust made only as security for the payment of money or for the performance of another act;
 - (7) Acting in accordance with its authorized powers as a religious, charitable, educational, or other not-for-profit corporation or as a charitable trust or as an unincorporated religious organization;
 - (8) Engaging in securities transactions as a dealer or salesman;
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- (9) Acting as either a receiver under the supervision of a court or as an assignee for the benefit of creditors under the supervision of a court; or**
(10) Engaging in such other activities that the director may prescribe by rule.

469.411. DETERMINATION OF UNITRUST AMOUNT — DEFINITIONS — EXCLUSIONS TO NET FAIR MARKET VALUE OF ASSETS — APPLICABILITY OF SECTION TO CERTAIN TRUSTS.
— 1. If the provisions of this section apply to a trust, the unitrust amount shall be determined as follows:

(1) For the first three accounting periods of the trust, the unitrust amount for a current valuation year of the trust shall be three percent, or any higher percentage specified by the terms of the governing instrument or by the election made in accordance with subdivision (2) of subsection 5 of this section, of the net fair market values of the assets held in the trust on the first business day of the current valuation year;

(2) Beginning with the fourth accounting period of the trust, the unitrust amount for a current valuation year of the trust shall be three percent, or any higher percentage specified by the terms of the governing instrument or by the election made in accordance with subdivision (2) of subsection 5 of this section, of the average of the net fair market values of the assets held in the trust on the first business day of the current valuation year and the net fair market values of the assets held in the trust on the first business day of each prior valuation year;

(3) The unitrust amount for the current valuation year computed pursuant to subdivision (1) or (2) of this subsection shall be proportionately reduced for any distributions, in whole or in part, other than distributions of the unitrust amount, and for any payments of expenses, including debts, disbursements and taxes, from the trust within a current valuation year that the trustee determines to be material and substantial, and shall be proportionately increased for the receipt, other than a receipt that represents a return on investment, of any additional property into the trust within a current valuation year;

(4) For purposes of subdivision (2) of this subsection, the net fair market values of the assets held in the trust on the first business day of a prior valuation year shall be adjusted to reflect any reduction, in the case of a distribution or payment, or increase, in the case of a receipt, for the prior valuation year pursuant to subdivision (3) of this subsection, as if the distribution, payment or receipt had occurred on the first day of the prior valuation year;

(5) In the case of a short accounting period, the trustee shall prorate the unitrust amount on a daily basis;

(6) In the case where the net fair market value of an asset held in the trust has been incorrectly determined either in a current valuation year or in a prior valuation year, the unitrust amount shall be increased in the case of an undervaluation, or be decreased in the case of an overvaluation, by an amount equal to the difference between the unitrust amount determined based on the correct valuation of the asset and the unitrust amount originally determined.

2. As used in this section, the following terms mean:

(1) "Current valuation year", the accounting period of the trust for which the unitrust amount is being determined;

(2) "Prior valuation year", each of the two accounting periods of the trust immediately preceding the current valuation year.

3. In determining the sum of the net fair market values of the assets held in the trust for purposes of subdivisions (1) and (2) of subsection 1 of this section, there shall not be included the value of:

(1) Any residential property or any tangible personal property that, as of the first business day of the current valuation year, one or more income beneficiaries of the trust have or had the right to occupy, or have or had the right to possess or control, other than in a capacity as trustee, and instead the right of occupancy or the right to possession or control shall be deemed to be the unitrust amount with respect to the residential property or the tangible personal property; or

(2) Any asset specifically given to a beneficiary under the terms of the trust and the return on investment on that asset, which return on investment shall be distributable to the beneficiary.

4. In determining the net fair market value of each asset held in the trust pursuant to subdivisions (1) and (2) of subsection 1 of this section, the trustee shall, not less often than annually, determine the fair market value of each asset of the trust that consists primarily of real property or other property that is not traded on a regular basis in an active market by appraisal or other reasonable method or estimate, and that determination, if made reasonably and in good faith, shall be conclusive as to all persons interested in the trust. Any claim based on a determination made pursuant to this subsection shall be barred if not asserted in a judicial proceeding brought by any beneficiary with any interest whatsoever in the trust within two years after the trustee has sent a report to all qualified beneficiaries that adequately discloses the facts constituting the claim. The rules set forth in subsection 2 of section 469.409 shall apply to the barring of claims pursuant to this subsection.

5. This section shall apply to the following trusts:

(1) Any trust created after August 28, 2001, with respect to which the terms of the trust clearly manifest an intent that this section apply;

(2) Any trust created under an instrument that became irrevocable on or before August 28, 2001, if the trustee, in the trustee's discretion, elects to have this section apply two years from August 28, 2001, unless the instrument creating the trust provides otherwise. The trustee shall deliver notice to all qualified beneficiaries and the settlor of the trust, if he or she is then living, of the trustee's intent to make such an election at least sixty days before making that election. The trustee shall have sole authority to make the election. Delivery of the notice to a person with respect to whom, pursuant to subdivision (2) of section 472.300, RSMo, an order would bind a beneficiary of the trust is delivery of notice to that beneficiary for all purposes of this subsection. An action or order by any court shall not be required. The election shall be made by a signed writing delivered to the settlor of the trust, if he or she is then living, and to all qualified beneficiaries. The election is irrevocable, unless revoked by order of the court having jurisdiction of the trust. The election may specify the percentage used to determine the unitrust amount pursuant to this section, provided that such percentage is three percent or greater, or if no percentage is specified, then that percentage shall be three percent. In making an election pursuant to this subsection, the trustee shall be subject to the same limitations and conditions as apply to an adjustment between income and principal pursuant to subsections 3 and 4 of section [469.409] **469.405**;

(3) No action of any kind based on an election made or not made by a trustee pursuant to subdivision (2) of this subsection shall be brought against the trustee by any beneficiary of that trust three years from August 28, 2001.

Approved June 13, 2002

SB 745 [SCS SB 745]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes special license plate for combat veterans of U.S. Marine Corps and U.S. Navy.

AN ACT to amend chapter 301, RSMo, by adding thereto one new section relating to specialized license plates.

SECTION

A. Enacting clause.
301.3085. United States Marine Corps, active duty combat, special license plate authorized.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 301, RSMo, is amended by adding thereto one new section, to be known as section 301.3085, to read as follows:

301.3085. UNITED STATES MARINE CORPS, ACTIVE DUTY COMBAT, SPECIAL LICENSE PLATE AUTHORIZED. — Any person who has participated in active duty combat action while serving in the United States Marine Corps or the United States Navy may apply for special motor vehicle license plates for any vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof as a recipient of the combat infantry badge as the director may require. The director shall then issue license plates bearing the words "COMBAT ACTION RIBBON" in place of the words "SHOW-ME STATE" in a form prescribed by the director, except that such license plates shall be made with fully reflective material, shall have a white background with a blue and red configuration at the discretion of the director, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Such plates shall also bear an image of a blue, yellow, and red ribbon. There shall be an additional fee charged for each set of special combat action ribbon license plates issued equal to the fee charged for personalized license plates in section 301.144. No more than one set of combat action ribbon license plates shall be issued to a qualified applicant. License plates issued pursuant to the provisions of this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle with such plates for the duration of the year licensed in the event of the death of the qualified person.

Approved July 3, 2002

SB 758 [CCS HCS SB 758]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Clarifies registration requirements for offenders.

AN ACT to repeal sections 43.540, 547.170, 589.400 and 589.410, RSMo, and to enact in lieu thereof four new sections relating to registration of offenders.

SECTION

- A. Enacting clause.
- 43.540. Criminal conviction record checks, patrol to conduct, when, procedure, information to be released, who may request — use limited to staff and volunteer applicants, confidentiality, violation, penalty.
- 547.170. Prisoner, when let to bail.
- 589.400. Registration of certain offenders with chief law officers of county of residence — time limitation — cities may request copy of registration.
- 589.410. Highway patrol to be notified, information to be made a part of MULES.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 43.540, 547.170, 589.400 and 589.410, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 43.540, 547.170, 589.400 and 589.410, to read as follows:

43.540. CRIMINAL CONVICTION RECORD CHECKS, PATROL TO CONDUCT, WHEN, PROCEDURE, INFORMATION TO BE RELEASED, WHO MAY REQUEST—USE LIMITED TO STAFF AND VOLUNTEER APPLICANTS, CONFIDENTIALITY, VIOLATION, PENALTY. — 1. As used in this section, the following terms mean:

(1) "Criminal record review", a request to the highway patrol for information concerning any criminal history record for a felony or misdemeanor **and any offense for which the person has registered pursuant to sections 589.400 to 589.425, RSMo;**

(2) "Patient or resident", a person who by reason of aging, illness, disease or physical or mental infirmity receives or requires care or services furnished by a provider, as defined in this section, or who resides or boards in, or is otherwise kept, cared for, treated or accommodated in a facility as defined in section 198.006, RSMo, for a period exceeding twenty-four consecutive hours;

(3) "Patrol", the Missouri state highway patrol;

(4) "Provider", any licensed day care home, licensed day care center, licensed child placing agency, licensed residential care facility for children, licensed group home, licensed foster family group home, licensed foster family home or any operator licensed pursuant to chapter 198, RSMo, any employer of nurses or nursing assistants for temporary or intermittent placement in health care facilities or any entity licensed pursuant to chapter 197, RSMo;

(5) "Youth services agency", any public or private agency, school, or association which provides programs, care or treatment for or which exercises supervision over minors.

2. Upon receipt of a written request from a private investigatory agency, a youth service agency or a provider, with the written consent of the applicant, the highway patrol shall conduct a criminal record review of an applicant for a paid or voluntary position with the agency or provider if such position would place the applicant in contact with minors, patients or residents.

3. Any request for information made pursuant to the provisions of this section shall be on a form provided by the highway patrol and shall be signed by the person who is the subject of the request.

4. The patrol shall respond in writing to the youth service agency or provider making a request for information pursuant to this section and shall inform such youth service agency or provider of the **address and offense for which the offender registered pursuant to sections 589.400 to 589.425, RSMo, and the nature of the offense, and the date, place and court for any other offenses contained in the criminal record review.** Notwithstanding any other provision of law to the contrary, the youth service agency or provider making such request shall have access to all records of arrests resulting in an adjudication where the applicant was found guilty or entered a plea of guilty or nolo contendere in a prosecution pursuant to chapter 565, RSMo, sections 566.010 to 566.141, RSMo, or under the laws of any state or the United States for offenses described in sections 566.010 to 566.141, RSMo, or chapter 565, RSMo, during the period of any probation imposed by the sentencing court.

5. Any information received by a provider or a youth services agency pursuant to this section shall be used solely for the provider's or youth service agency's internal purposes in determining the suitability of an applicant or volunteer. The information shall be confidential and any person who discloses the information beyond the scope allowed in this section is guilty of a class A misdemeanor. The patrol shall inform, in writing, the provider or youth services agency of the requirements of this subsection and the penalties provided in this subsection at the time it releases any information pursuant to this section.

547.170. PRISONER, WHEN LET TO BAIL. — In all cases where an appeal or writ of error is prosecuted from a judgment in a criminal cause, except where the defendant is under sentence of death or imprisonment in the penitentiary for life, or a sentence of imprisonment for a violation of sections 195.222, RSMo, 565.021, RSMo, 565.050, RSMo, [or] subsections 1 and 2 of section 566.030, **566.032, 566.040, 566.060, 566.062, 566.070, 566.100,** RSMo, any court or officer authorized to order a stay of proceedings under the preceding provisions may allow a writ

of habeas corpus, to bring up the defendant, and may thereupon let him to bail upon a recognizance, with sufficient sureties, to be approved by such court or judge.

589.400. REGISTRATION OF CERTAIN OFFENDERS WITH CHIEF LAW OFFICERS OF COUNTY OF RESIDENCE — TIME LIMITATION — CITIES MAY REQUEST COPY OF REGISTRATION.— 1. Sections 589.400 to 589.425 shall apply to:

(1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty to committing, or attempting to commit, [an] **a felony offense of chapter 566, RSMo, or any offense of chapter 566, RSMo, where the victim is a minor;** or

(2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty to committing, or attempting to commit one or more of the following offenses: kidnapping, **pursuant to section 565.110, RSMo; felonious restraint;** promoting prostitution in the first degree; promoting prostitution in the second degree; promoting prostitution in the third degree; incest; abuse of a child [used], **pursuant to section 568.060, RSMo; use of a child in a sexual performance;** or promoting sexual performance by a child; and committed or attempted to commit the offense against a victim who is a minor, defined for the purposes of sections 589.400 to 589.425 as a person under eighteen years of age; or

(3) Any person who, since July 1, 1979, has been committed to the department of mental health as a criminal sexual psychopath; or

(4) Any person who, since July 1, 1979, has been found not guilty as a result of mental disease or defect of any offense listed in subdivision (1) or (2) of this subsection; or

(5) Any person who is a resident of this state [and] **who has, since July 1, 1979, or is hereafter convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state or under federal jurisdiction to committing, or attempting to commit, an offense which, if committed in this state, would be a violation of chapter 566, RSMo, or a felony violation of any offense listed in subdivision (2) of this subsection** or has been or is required to register in another state or has been or is required to register under federal or military law; or

(6) Any person who has been or is required to register in another state or has been or is required to register under federal or military law and who works or attends school or training on a full-time or on a part-time basis in Missouri. Part-time in this subdivision means for more than fourteen days in any twelve-month period.

2. Any person to whom sections 589.400 to 589.425 apply shall, within ten days of [coming into any county] **conviction, release from incarceration, or placement upon probation,** register with the chief law enforcement official of the county in which such person resides **unless such person has already registered in that county for the same offense. Any person to whom sections 589.400 to 589.425 apply if not currently registered in their county of residence shall register with the chief law enforcement official of such county within ten days of the effective date of this section.** The chief law enforcement official shall forward a copy of the registration form required by section 589.407 to a city, town or village law enforcement agency located within the county of the chief law enforcement official, if so requested. Such request may ask the chief law enforcement official to forward copies of all registration forms filed with such official. The chief law enforcement official may forward a copy of such registration form to any city, town or village law enforcement agency, if so requested.

3. The registration requirements of sections 589.400 through 589.425 are lifetime registration requirements unless all offenses requiring registration are reversed, vacated or set aside or unless the registrant is pardoned of the offenses requiring registration.

589.410. HIGHWAY PATROL TO BE NOTIFIED, INFORMATION TO BE MADE A PART OF MULES.— The chief law enforcement official shall forward the completed offender registration form to the Missouri state highway patrol within three days. The patrol shall enter the

information into the Missouri uniform law enforcement system (MULES) where it is available to members of the criminal justice system, **and other entities as provided by law**, upon inquiry.

Approved July 10, 2002

SB 776 [HCS SCS SB 776]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Missouri Higher Education Savings Program personal information shall be confidential.

AN ACT to repeal section 166.415, RSMo, and to enact in lieu thereof two new sections relating to the Missouri higher education savings program.

SECTION

- A. Enacting clause.
- 166.415. Missouri higher education savings program, created, board, members, proxies, powers and duties, investments.
- 166.456. Confidentiality of information.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 166.415, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 166.415 and 166.456, to read as follows:

166.415. MISSOURI HIGHER EDUCATION SAVINGS PROGRAM, CREATED, BOARD, MEMBERS, PROXIES, POWERS AND DUTIES, INVESTMENTS. — 1. There is hereby created the "Missouri Higher Education Savings Program". The program shall be administered by the Missouri higher education savings program board which shall consist of the Missouri state treasurer who shall serve as chairman, the commissioner of the department of higher education, the commissioner of the office of administration, the director of the department of economic development and two persons having demonstrable experience and knowledge in the areas of finance or the investment and management of public funds, one of whom is selected by the president pro tem of the senate and one of whom is selected by the speaker of the house of representatives. The two appointed members shall be appointed to serve for terms of four years from the date of appointment, or until their successors shall have been appointed and shall have qualified. The members of the board shall be subject to the conflict of interest provisions of section 105.452, RSMo. Any member who violates the conflict of interest provisions shall be removed from the board. In order to establish and administer the savings program, the board, in addition to its other powers and authority, shall have the power and authority to:

(1) Develop and implement the Missouri higher education savings program and, notwithstanding any provision of sections 166.400 to 166.455 to the contrary, the savings programs and services consistent with the purposes and objectives of sections 166.400 to 166.455;

(2) Promulgate reasonable rules and regulations and establish policies and procedures to implement sections 166.400 to 166.455, to permit the savings program to qualify as a "qualified state tuition program" pursuant to Section 529 of the Internal Revenue Code and to ensure the savings program's compliance with all applicable laws;

(3) Develop and implement educational programs and related informational materials for participants, either directly or through a contractual arrangement with a financial institution for

investment services, and their families, including special programs and materials to inform families with young children regarding methods for financing education and training beyond high school;

(4) Enter into agreements with any financial institution, the state or any federal or other agency or entity as required for the operation of the savings program pursuant to sections 166.400 to 166.455;

(5) Enter into participation agreements with participants;

(6) Accept any grants, gifts, legislative appropriations, and other moneys from the state, any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit to the account of the savings program;

(7) Invest the funds received from participants in appropriate investment instruments to achieve long-term total return through a combination of capital appreciation and current income;

(8) Make appropriate payments and distributions on behalf of beneficiaries pursuant to participation agreements;

(9) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in sections 166.400 to 166.455 and the rules adopted by the board;

(10) Make provision for the payment of costs of administration and operation of the savings program;

(11) Effectuate and carry out all the powers granted by sections 166.400 to 166.455, and have all other powers necessary to carry out and effectuate the purposes, objectives and provisions of sections 166.400 to 166.455 pertaining to the savings program; and

(12) Procure insurance, guarantees or other protections against any loss in connection with the assets or activities of the savings program.

2. Any member of the board may designate a proxy for that member who will enjoy the full voting privileges of that member for the one meeting so specified by that member. No more than three proxies shall be considered members of the board for the purpose of establishing a quorum.

3. Four members of the board shall constitute a quorum. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board. No action shall be taken by the board except upon the affirmative vote of a majority of the members present.

[3.] **4.** The board shall meet within the state of Missouri at the time set at a previously scheduled meeting or by the request of any four members of the board. Notice of the meeting shall be delivered to all other trustees in person or by depositing notice in a United States post office in a properly stamped and addressed envelope not less than six days prior to the date fixed for the meeting. The board may meet at any time by unanimous mutual consent. There shall be at least one meeting in each quarter.

[4.] **5.** The funds shall be invested only in those investments which a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims, as provided in section 105.688, RSMo. The board may delegate to duly appointed investment counselors authority to act in place of the board in the investment and reinvestment of all or part of the moneys and may also delegate to such counselors the authority to act in place of the board in the holding, purchasing, selling, assigning, transferring or disposing of any or all of the securities and investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys. Such investment counselors shall be registered as investment advisors with the United States Securities and Exchange Commission. In exercising or delegating its investment powers and authority, members of the board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. No member of the board shall be liable for any action taken or omitted with respect to the exercise of, or delegation of, these powers and authority if such member shall have discharged the duties of his or her position in

good faith and with that degree of diligence, care and skill which a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

[5.] 6. No investment transaction authorized by the board shall be handled by any company or firm in which a member of the board has a substantial interest, nor shall any member of the board profit directly or indirectly from any such investment.

[6.] 7. No trustee or employee of the savings program shall receive any gain or profit from any funds or transaction of the savings program. Any trustee, employee or agent of the savings program accepting any gratuity or compensation for the purpose of influencing such trustee's, employee's or agent's action with respect to the investment or management of the funds of the savings program shall thereby forfeit the office and in addition thereto be subject to the penalties prescribed for bribery.

166.456. CONFIDENTIALITY OF INFORMATION. — All personally identifiable information concerning participants and beneficiaries of accounts established within the Missouri higher education savings program pursuant to sections 166.400 to 166.455 shall be confidential, and any disclosure of such information shall be restricted to purposes directly connected with the administration of the program.

Approved June 28, 2002

SB 786 [HCS SB 786]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes certain design and build contracts when the contractor is not licensed in Missouri.

AN ACT to amend chapter 327, RSMo, by adding thereto one new section relating to the licensing of architects and engineers.

SECTION

A. Enacting clause.

327.465. Certificate of registration or authority not required, when — definitions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 327, RSMo, is amended by adding thereto one new section, to be known as section 327.465, to read as follows:

327.465. CERTIFICATE OF REGISTRATION OR AUTHORITY NOT REQUIRED, WHEN — DEFINITIONS. — 1. As used in this section, the following terms shall mean:

(1) "Design-build", a project for which the design and construction services are furnished under one contract;

(2) "Design-build contract", a contract between the owner, owner's agent, tenant, or other party and a design-build contractor to furnish the architecture, engineering, and related design services, and the labor, materials, and other construction services required for a specific public or private construction project;

(3) "Design-build contractor", any individual, partnership, joint venture, corporation, or other legal entity that furnishes architecture or engineering services and construction services either directly or through subcontracts.

2. Any design-build contractor that enters into a design-build contract for public or private construction shall be exempt from the requirement that such person or entity hold a certificate of registration or such corporation hold a certificate of authority if the architectural, engineering, or land surveying services to be performed under the contract are performed through subcontracts with:

- (1) Persons who hold a certificate of registration for the appropriate profession; or
- (2) Corporations that hold current certificates of authority from the board for the appropriate profession.

3. Nothing in this chapter shall prohibit the enforcement of a design-build contract by a design-build contractor who only furnishes, but does not directly or through its employees perform the architectural, engineering, or surveying required by the contract and who does not hold itself out as able to perform such services.

Approved July 10, 2002

SB 795 [CCS#2 HCS SB 795]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates Emergency Communications Systems Fund for use of counties.

AN ACT to amend chapter 650, RSMo, by adding thereto nine new sections relating to emergency communication systems.

SECTION

- A. Enacting clause.
- 650.277. Fees for inspection, permits, licenses, and certificates, amount determined by board — Boiler and Pressure Vessels Safety Fund established.
- 650.390. Definitions.
- 650.393. Commission established, membership, terms.
- 650.396. Tax authorized, when, amount.
- 650.399. Tax levied, vote required, ballot language.
- 650.402. Emergency Communications System Fund established, use of funds, administration.
- 650.405. Powers and responsibilities of board.
- 650.408. Operation and maintenance of system funding — issuance of bonds authorized, submission to the voters, ballot language, use of money.
- 650.411. Use of moneys derived from the sale of bonds.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 650, RSMo, is amended by adding thereto nine new sections, to be known as sections 650.277, 650.390, 650.393, 650.396, 650.399, 650.402, 650.405, 650.408 and 650.411, to read as follows:

650.277. FEES FOR INSPECTION, PERMITS, LICENSES, AND CERTIFICATES, AMOUNT DETERMINED BY BOARD — BOILER AND PRESSURE VESSELS SAFETY FUND ESTABLISHED. — 1. As otherwise provided by sections 650.200 to 650.295, the boiler and pressure vessel board shall set fees for inspection, permits, licenses, and certificates required by sections 650.200 to 650.295. Fees shall be determined by the board to provide sufficient funds for the operation of the board and shall be set by rule or regulation promulgated in accordance with the provisions of section 536.021, RSMo. The board may alter the fee schedule once every two years. Any funds collected pursuant to sections 650.200 to

650.295 shall be deposited in the "Boiler and Pressure Vessels Safety Fund", which is hereby created. Beginning July 1, 2003, moneys in the fund shall be appropriated from the fund for the expenses of the board. A municipality or other political subdivision enforcing the provisions of sections 650.200 to 650.295 and which performs the inspections, permitting, licensing, and certification as required, the fee for such inspection shall be paid directly to the municipality or political subdivision and shall not be preempted by sections 650.200 to 650.295, except that any fee established by the board for the issuance of appropriate state certificates shall be paid to the board.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section or under the authority of sections 650.210 to 650.275 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

650.390. DEFINITIONS. — As used in sections 650.390 to 650.411, the following words and terms mean:

(1) "Board of commissioners", a board appointed by the chief executive officer of the governing body within a service area for the purpose of administering a county emergency communications system. No board of commissioners established pursuant to sections 650.390 to 650.411 shall have jurisdiction over local emergency or police dispatching agencies;

(2) "County", any charter county with a population of more than nine hundred thousand inhabitants;

(3) "Emergency communications system", a wireless radio communication network, including infrastructure hardware and software, providing communications links that permit participating governmental or public safety entities to communicate within the area served by such system which is coterminous with the geographic boundaries of the county in which the emergency communications system is situated;

(4) "Governing body", the legislative body of any county with a charter form of government and a population of more than nine hundred thousand inhabitants.

650.393. COMMISSION ESTABLISHED, MEMBERSHIP, TERMS. — 1. The governing body of a county may establish an emergency communications system commission within the geographical boundaries of such county. Each such commission shall be composed of seven commissioners appointed by the chief executive officer of the county in which the commission is established.

2. The commission shall include a chief of police of a municipality located within the county, the chief of the police or the sheriff of the county, a chief of a municipal fire department located within the county, a chief of a fire protection district located within the county, and three at-large commissioners, who shall be residents of the county, all subject to the confirmation of the governing body of the county. Where applicable, the member who is a municipal chief of police shall be chosen from those persons nominated by a local police chiefs association. The members who are chiefs of either a municipal fire department or a fire protection district shall be chosen from those persons nominated by a local fire chiefs association. One at-large commissioner shall be chosen from those persons nominated by a local municipal league or organization. At least two of the at-large commissioners shall be persons who are not employed by a fire department or district, a police or sheriff's department, or any emergency medical system, or who are not

elected or appointed officials of a political subdivision of the state or are not employed by the state of Missouri.

3. The terms of office of the commissioner who is a chief of police or sheriff of the county shall be coterminous with such person's term of office as chief of police or sheriff. At the first meeting of the commission, the other commissioners shall choose the length of their terms, with two commissioners serving for two years, three commissioners serving for three years and one commissioner serving for four years. All succeeding commissioners shall serve for five years. Terms shall end on December thirty-first of the respective year. No commissioner shall serve for more than two consecutive full terms. A commissioner who is not an at-large commissioner shall remain in office only so long as he or she retains office with the department or district that such commissioner served at the time such person was appointed to the board of commissioners. Vacancies on the board of commissioners shall be filled by persons appointed by the chief executive officer of the county in the same manner by which the commissioner whose office is vacant was first appointed.

650.396. TAX AUTHORIZED, WHEN, AMOUNT. — A county in which an emergency communications system commission has been established may, by a majority vote of the qualified voters voting thereon, levy and collect a tax on the taxable real property in the district, not to exceed six cents per one hundred dollars of assessed valuation to accomplish any of the following purposes:

(1) The provision of necessary funds to establish, operate and maintain an emergency communications system to serve the county in which the commission is located; and

(2) The provision of funds to supplement existing funds for the operation and maintenance of an existing emergency communications system in the county in which the commission is located.

650.399. TAX LEVIED, VOTE REQUIRED, BALLOT LANGUAGE. — 1. The board of commissioners may, by a majority vote of its members, request that the governing body of the county submit to the qualified voters of such county at a general, primary or special election either of the questions contained in subsection 2 of this section. The governing body may approve or deny such request. The governing body may also vote to submit such question without a request of the board of commissioners. The county election official shall give legal notice of the election pursuant to chapter 115, RSMo.

2. The questions shall be put in substantially the following form:

(1) "Shall (name of county) establish an emergency communications system fund to establish (and/or) maintain an emergency communications system, and for which the county shall levy a tax of (insert exact amount, not to exceed six cents) per each one hundred dollars assessed valuation therefor, to be paid into the fund for that purpose?"

☐ YES ☐ NO; or

(2) "Shall (name of county) establish an emergency communications system fund to establish (and/or) maintain an emergency communications system, and for which the county shall levy a sales tax of (insert exact amount, not to exceed one-tenth of one percent), to be paid into the fund for that purpose?"

☐ YES ☐ NO

3. The election shall be conducted and vote canvassed in the same manner as other county elections. If the majority of the qualified voters voting thereon vote in favor of such tax, then the county shall levy such tax in the specified amount, beginning in the tax year immediately following its approval. The tax so levied shall be collected along with other county taxes in the manner provided by law. If the majority of the qualified voters voting thereon vote against such tax, then such tax shall not be imposed unless such tax is resubmitted to the voters and a majority of the qualified voters voting thereon approve such tax.

650.402. EMERGENCY COMMUNICATIONS SYSTEM FUND ESTABLISHED, USE OF FUNDS, ADMINISTRATION. — All funds collected from any tax approved pursuant to section 650.399 shall be deposited in a special county fund, to be designated the "Emergency Communications System Fund". The fund shall be held and managed in the same manner as all other funds of such county. The fund shall be administered by the board of commissioners to accomplish the purposes set out in sections 650.396, 650.405 and 650.411, and shall be used for no other purpose.

650.405. POWERS AND RESPONSIBILITIES OF BOARD. — The board of commissioners shall have the following powers and responsibilities:

(1) To supervise and administer, within the acquisition and purchasing procedures of the county, the building, acquisitions by purchase or otherwise, construction and operation of an emergency communications system for the county in which the commission is located;

(2) To administratively control and manage the emergency communications system;

(3) To negotiate and recommend to the governing body that the county contract with such companies or other business or governmental entities, which in the opinion of the board of commissioners are necessary to provide equipment, material and professional services to establish, construct and maintain an emergency communications system and conduct the business of the commission;

(4) To promulgate an annual report of the financial condition and operation of the commission and the emergency communications system;

(5) To recommend to the governing body that the county purchase or acquire by gift such real estate and equipment and materials necessary to accomplish the purposes of the commission and the emergency communications system; and

(6) To adopt such bylaws, rules and regulations as in the opinion of the board of commissioners shall best serve the purpose of the commission.

650.408. OPERATION AND MAINTENANCE OF SYSTEM FUNDING —ISSUANCE OF BONDS AUTHORIZED, SUBMISSION TO THE VOTERS, BALLOT LANGUAGE, USE OF MONEY. — 1. The funds necessary for payment of any obligation of the county in connection with the establishment, operation and maintenance of the emergency communications system may be paid by the county out of the fund established pursuant to section 650.402, or from bonds issued pursuant to this section.

2. For the purpose of supporting the operation and other purposes of the commission and the emergency communications system, the county may issue bonds for and on behalf of the county, payable out of funds derived from the sales tax authorized in sections 650.396 and 650.399 or from taxation of all taxable real property in the county, up to an amount not exceeding six percent of the assessed valuation of such property, with such evaluation to be ascertained by the assessment immediately prior to the most recent assessment for state and county purposes, or from revenue generated from any other tax or fee authorized and approved by the voters pursuant to section 650.399. Such bonds shall be issued in denominations of one hundred dollars, or some multiple thereof, and the provisions of section 108.170, RSMo, to the contrary notwithstanding, such bonds may bear interest at a rate determined by the emergency communications system commissioners, payable semiannually, to become payable no later than twenty years after the date of the bonds.

3. Whenever the board of commissioners of any such emergency communications district proposes to issue bonds pursuant to subdivision (3) of subsection 2 of this section, they shall submit the question to the voters in the district pursuant to this section. The notice for any such election shall, in addition to the requirements of chapter 115, RSMo, state the amount of bonds to be issued.

4. The question shall be submitted in substantially the following form:

"Shall County issue bonds in the amount of dollars, the purpose of which are to support the construction, repair and maintenance of the Emergency Communications System?"

☐ YES ☐ NO

5. The result of the election on the question shall be entered upon the records of the county. If it shall appear that four-sevenths of the voters voting on the question shall have voted in favor of the issue of the bonds, the commissioners shall order and direct the execution of the bonds for and on behalf of such county and the commission. If the general law of the state is such that an amount other than a four-sevenths majority is required on ballot measures of such type, the amount set by the general law of the state shall control.

6. The county shall not sell such bonds for less than ninety-five percent of the par value thereof, and the proceeds shall be paid over to the county treasurer, and disbursed on warrants drawn by the president or vice president of the board of commissioners and attested by the secretary. The proceeds of the sale of such bonds shall be used for the purpose only of paying the cost of holding such election, and constructing, repairing and maintaining the emergency communications system and its appurtenances.

7. Such bonds shall be payable and collectible only out of moneys derived from tax revenues authorized by section 650.399, from the sale of such bonds or from interest that may accrue on funds so derived while on deposit with any county depository. The county treasurer shall hold in reserve, for payment of interest on such bonds, a sufficient amount of the money so derived that may come into his or her hands in excess of the amount then necessary to pay all bonds and interest then past due, to pay all interest that will become payable before the next installment of such special tax becomes payable, and three percent of the principal amount of the bonds not then due. The county treasurer shall, whenever any of the bonds or interest thereon become due, apply such money as may be in his or her custody and applicable thereto, or that may thereafter come into his or her custody and be applicable thereto, to payment of such bonds and interest as may be due and unpaid.

8. All money derived from the tax authorized pursuant to section 650.399 shall be used in paying the bonds and the interest thereon, except that the money that may be collected pursuant to such tax in excess of the amount necessary to pay all bonds then past due and such bonds and interest as will become payable before another assessment of such tax becomes payable may, less an amount equal to three percent of the principal amount of the bonds not then due, be used for the purposes authorized in section 650.411.

9. The county treasurer shall, as such bonds are sold, deliver them to the purchaser upon being ordered to do so by the commissioners. The county treasurer shall cancel bonds as such bonds are paid, and shall deliver them to the clerk of the county.

650.411. USE OF MONEYS DERIVED FROM THE SALE OF BONDS. — All money derived from the sale of bonds pursuant to section 650.408 except such portion as is required to be reserved pursuant to subsections 7 and 8 of section 650.408, all money collected on any tax authorized according to section 650.399 and all interest that may accrue on moneys so derived while deposited with any county depository and not required to be used in paying such bonds or interest thereon, shall be used, and warrants drawn on the treasurer therefor, to pay:

(1) The cost and expenses incurred by the county maintaining any real or personal property used in the operation of the emergency communications system; and

(2) Such working, administrative and incidental expenses, not otherwise provided by law, as may be incurred in operating such emergency communications system.

SB 798 [SB 798]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows two sets of specialized plates to be issued to U.S. Congressional members.

AN ACT to repeal section 301.453, RSMo, relating to congressional license plates, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

301.453. General assembly member, special license plates, application, form, fee — member of Congress, special license plates, application, form, fee — statewide elected official, special plates, application, form, fee.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 301.453, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.453, to read as follows:

301.453. GENERAL ASSEMBLY MEMBER, SPECIAL LICENSE PLATES, APPLICATION, FORM, FEE — MEMBER OF CONGRESS, SPECIAL LICENSE PLATES, APPLICATION, FORM, FEE — STATEWIDE ELECTED OFFICIAL, SPECIAL PLATES, APPLICATION, FORM, FEE. — 1. Any member of the general assembly of the state of Missouri while holding office, upon application and payment of the fee required for personalized license plates in section 301.144, and other fees and documents which may be required by law, may apply for special personalized license plates bearing the state seal in gold and black colors along with the words "Representative" or "Senator" in preference to the words "Show-Me State". The director of revenue shall annually set aside special personalized license plates bearing the letters and numbers S-1 to S-34 and S01 to S034, R-1 to R-163 and R01 to R0163 to be issued to a member of the general assembly of the state of Missouri while such member is holding that office, upon such member's written request. For the first set of special personalized license plates issued to a member of the general assembly, such plates shall bear the letter "S" and the number of the senator's district for a member of the state senate or the letter "R" and the number of the representative's district for a member of the house of representatives and for the second set of plates issued to a member of the general assembly, such plates shall bear the letter "S" and the number of the senator's district preceded by the numeral "0" for a member of the state senate or the letter "R" and the number of the representative's district preceded by the numeral "0" for a member of the house of representatives. Only two sets of such plates may be issued to any one member of the general assembly.

2. Any member of the United States Congress while he **or she** is holding that office, upon his **or her** written request and upon a payment of the additional fee required for personalized plates in section 301.144, may apply for special personalized license plates bearing the state seal in gold and black along with the words "Member of Congress" instead of the words "Show-Me State" and either the letters and numbers "[USS1] **USS-1, USS-01**" and "[USS2] **USS-2, USS-02**" for the senior and junior United States Senators from Missouri, respectively, or, in the case of members of the United States House of Representatives, bearing the letters "[USC" together with the number of the representative's district] **USC-1 to USC-9 and USC-01 to USC-09**". Only [one set] **two sets** of such plates may be issued to any one individual congressman.

3. The director shall annually set aside special personalized license plates bearing the state seal in gold and black and the numbers 1, 2, 3, 4, 5, and 6 along with the words "Governor", "Lieutenant Governor", "Secretary of State", "State Auditor", "State Treasurer" and "Attorney

General" in preference to the words "Show-Me State" to be issued to the governor, lieutenant governor, secretary of state, state auditor, state treasurer, and attorney general, respectively, upon written request and upon payment of the fee required for personalized license plates in section 301.144, and other fees and documents as may be required by law. These plates shall be held by the appropriate public official only while such person remains in that office. Upon leaving that office the public official shall surrender the personalized license plates to the director, who shall make them available as provided in this subsection to the succeeding public official.

4. All special license plates issued under this section shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

Approved July 3, 2002

SB 804 [SCS SB 804]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes Governor to convey twelve property interests held by the Department of Mental Health to Kansas City.

AN ACT to authorize the conveyance of certain property interests to the city of Kansas City.

SECTION

1. Conveyance of property managed by the department of mental health to the city of Kansas City.
2. Conveyance of property managed by the department of mental health to the city of Kansas City for a public road right-of-way.
3. Conveyance of property managed by the department of mental health to the city of Kansas City.
4. Conveyance of property managed by the department of mental health to the city of Kansas City for a public right-of-way.
5. Conveyance of property managed by the department of mental health to the city of Kansas City for a public road right-of-way.
6. Conveyance of property managed by the department of mental health to the city of Kansas City.
7. Conveyance of property managed by the department of mental health to the city of Kansas City for a storm drainage easement.
8. Temporary easement granted for property managed by the department of mental health to the city of Kansas City.
9. Conveyance of property managed by the department of mental health to the city of Kansas City for a public road right-of-way.
10. Conveyance of property managed by the department of mental health to the city of Kansas City for a public road right-of-way.
11. Temporary easement granted for property managed by the department of mental health to the city of Kansas City.
12. Temporary easement granted for property managed by the department of mental health to the city of Kansas City.
13. Temporary easement granted for property managed by the department of mental health to the city of Kansas City.
14. Consideration for conveyance of property.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. CONVEYANCE OF PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY. — 1. The governor is hereby authorized to grant a temporary easement for property managed by the department of mental health to the city of Kansas City, Missouri. The tract of land being a part of Lots 50-56 inclusive in HOME PARK, and a part of Lots 25 and 34 in COL. E. M. MCGEE'S SUBDIVISION,

and the vacated alley between said lots, subdivisions in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,157.64 feet; thence North 87°50'48" West along said centerline, a distance of 371.01 feet; thence North 87°15'32" West along said centerline, a distance of 336.38 feet; thence North 02°44'28" East, a distance of 4.97 feet to a point on the south line of said Lot 25; thence North 02°48'45" East along a line parallel to the east line of said lot, a distance of 32.83 feet to the True Point of Beginning; thence North 02°48'45" East along a line parallel to the east line of said lot, a distance of 26.22 feet; thence South 87°58'15" East, a distance of 79.67 feet; thence South 00°10'25" East, a distance of 15.83 feet; thence South 88°10'02" East, a distance of 93.95 feet; thence North 02°46'13" East, a distance of 14.43 feet; thence South 87°11'15" East along a line parallel to the south line of said Lots 25 and 50, a distance of 175.41 feet; thence North 02°23'59" East along a line parallel to the east line of said Lots 51-55 inclusive, a distance of 96.04 feet; thence South 87°11'34" East, a distance of 5.00 feet; thence South 02°23'59" West along a line parallel to the east line of Lot 55-51 inclusive, a distance of 101.11 feet; thence South 46°44'38" West, a distance of 40.06 feet; thence North 85°09'48" West, a distance of 185.81 feet; thence North 87°11'32" West along a line parallel to the south line of said Lots 25 and 50, a distance of 141.37 feet to the Point of Beginning. The above described tract of land contains 9,093.70 square feet, more or less.

2. A termination date for the easement shall be as negotiated by the parties.

3. The attorney general shall approve as to form the instruments of conveyance.

SECTION 2. CONVEYANCE OF PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY FOR A PUBLIC ROAD RIGHT-OF-WAY. — 1. The governor is hereby authorized to convey property managed by the department of mental health to the city of Kansas City, Missouri, for the purpose of public road right-of-way. The tract being a part of Lots 50-56 inclusive in HOME PARK, and a part of Lots 25 and 34 in COL. E. M. MCGEE'S SUBDIVISION, and the vacated alley between said lots, subdivisions in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,157.64 feet; thence North 87°50'48" West along said centerline, a distance of 371.01 feet; thence North 87°15'32" West along said centerline, a distance of 336.38 feet; thence North 02°44'28" East, a distance of 4.97 feet to a point on the south line of said Lot 25 as the True Point of Beginning; thence North 02°48'45" East along a line parallel to the east line of said lot, a distance of 32.83 feet; thence South 87°15'32" East, a distance of 141.37 feet; thence South 85°09'48" East, a distance of 185.81 feet; thence North 46°44'38" East, a distance of 40.06 feet; thence North 02°23'59" East along a line parallel to the east line of said Lots 51-56 inclusive and Lot 34, a distance of 176.59 feet; thence South 87°11'34" East, a distance of 3.00 feet to the east line of said Lot 34; thence South 02°23'59" West along the east line of said Lots 34 and 56-50 inclusive, a distance of 211.58 feet to the southeast corner of said Lot 50; thence North 87°11'15" West along the south line of said Lot 50 and its westerly extension, a distance of 158.11 feet to a point on the east line of said Lot 25; thence South 02°48'45" West along the east line of said lot, a distance of 20.30 feet to the southeast corner of said lot; thence North 87°11'15" West along the south line of said lot, a distance

of 200.00 feet to the Point of Beginning. The above described tract of land contains 8,802.90 square feet, more or less.

2. The attorney general shall approve as to form the instruments of conveyance.

SECTION 3. CONVEYANCE OF PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY. — 1. The governor is hereby authorized to grant a temporary easement for property managed by the department of mental health to the city of Kansas City, Missouri. The tract being a part of the east 125 feet of the south 90.8 feet of Lot 26 in COL. E. M. MCGEE'S SUBDIVISION, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,157.64 feet; thence North 87°50'48" West along said centerline, a distance of 371.01 feet; thence North 87°15'32" West along said centerline, a distance of 136.43 feet; thence South 02°44'28" West, a distance of 34.98 feet to a point 30.70 feet south of the northeast corner of said Lot 26; thence South 02°48'45" West along the east line thereof, a distance of 1.83 feet to the True Point of Beginning; thence South 02°48'45" West along the east line thereof, a distance of 10.47 feet; thence North 87°57'13" West, a distance of 67.79 feet; thence North 02°48'45" East along a line parallel to the east line of said lot, a distance of 5.53 feet; thence North 88°00'13" West, a distance of 10.95 feet; thence South 02°48'45" West along a line parallel to the east line of said lot, a distance of 3.84 feet; thence North 88°00'13" West, a distance of 46.27 feet; thence North 02°48'45" East along a line parallel to the east line thereof, a distance of 10.33 feet; thence South 87°15'32" East, a distance of 125.00 feet to the Point of Beginning. The above described tract of land contains 1,265.69 square feet, more or less.

2. A termination date for the easement shall be as negotiated by the parties.
3. The attorney general shall approve as to form the instruments of conveyance.

SECTION 4. CONVEYANCE OF PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY FOR A PUBLIC RIGHT-OF-WAY. — 1. The governor is hereby authorized to convey property managed by the department of mental health to the city of Kansas City, Missouri for the purpose of a public right-of-way. The tract of land being a part of the east 125 feet of the south 90.8 feet of Lot 26 in COL. E. M. MCGEE'S SUBDIVISION, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,157.64 feet; thence North 87°50'48" West along said centerline, a distance of 371.01 feet; thence North 87°15'32" West along said centerline, a distance of 136.43 feet; thence South 02°44'28" West, a distance of 34.98 feet to a point 30.70 feet south of the northeast corner of said Lot 26 as the True Point of Beginning; thence South 02°48'45" West along the east line thereof, a distance of 1.83 feet; thence North 87°15'32" West, a distance of 125.00 feet; thence North 02°48'45" East along a line parallel to the east line thereof, a distance of 1.99 feet; thence South 87°11'15" East along a line parallel to the north line thereof, a distance of 125.00 feet to the Point of Beginning. The above described tract of land contains 238.79 square feet, more or less.

2. The attorney general shall approve as to form the instruments of conveyance.

SECTION 5. CONVEYANCE OF PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY FOR A PUBLIC ROAD RIGHT-OF-WAY. — 1. The governor is hereby authorized to convey property managed by the department of mental health to the city of Kansas City, Missouri for the purpose of public road right-of-way. The tract being a part of Lot 27 in HOME PARK, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,157.64 feet; thence North 87°50'48" West along said centerline, a distance of 293.00 feet; thence North 02°09'12" East, a distance of 23.97 feet to the southwest corner of Lot 27 as the True Point of Beginning; thence North 02°23'59" East along the west line thereof, a distance of 25.00 feet; thence South 42°53'07" East, a distance of 21.11 feet; thence South 87°11'34" East along a line parallel to the south line of said lot, a distance of 112.90 feet to a point on the West line of a 14 foot alley created by Ordinance No. 10410, passed August 27, 1898; thence South 02°23'59" West along said West line, being parallel to the west line of said lot, a distance of 10.26 feet to a point on the south line of said lot; thence North 87°11'34" West along the south line thereof, a distance of 127.90 feet to the Point of Beginning. The above described tract of land contains 1,423.88 square feet, more or less.

2. The attorney general shall approve as to form the instruments of conveyance.

SECTION 6. CONVEYANCE OF PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY. — 1. The governor is hereby authorized to grant a temporary easement for property managed by the department of mental health to the city of Kansas City, Missouri. The tract of land being part of Lots 25-27 inclusive in HOME PARK, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,157.64 feet; thence North 87°50'48" West along said centerline, a distance of 293.00 feet; thence North 02°09'12" East, a distance of 23.97 feet to the southwest corner of Lot 27; thence North 02°23'59" East along the west line thereof, a distance of 25.00 feet to the Point of Beginning; thence North 02°23'59" East along the west line of said Lots 27-25 inclusive, a distance of 60.00 feet to the northwest corner of said Lot 25; thence South 87°11'34" East along the north line thereof, a distance of 127.90 feet; thence South 02°23'59" West along a line parallel to the west line of said Lots 25-27 inclusive, a distance of 74.75 feet; thence North 87°11'34" West along a line parallel to the south line of said Lot 27, a distance of 112.90 feet; thence North 42°53'07" West, a distance of 21.11 feet to the Point of Beginning. The above described tract of land contains 9,448.78 square feet, more or less.

2. A termination date for the easement shall be as negotiated by the parties.

3. The attorney general shall approve as to form the instruments of conveyance.

SECTION 7. CONVEYANCE OF PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY FOR A STORM DRAINAGE EASEMENT. — 1. The governor is hereby authorized to convey property managed by the department of mental health to the city of Kansas City, Missouri for the purpose of a storm drainage easement. The tract of land being part of Lot 25 in HOME PARK, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,157.64 feet; thence North 87°50'48" West along said centerline, a distance of 293.00 feet; thence North 02°09'12" East, a distance of 23.97 feet to the southwest corner of Lot 27; thence North 02°23'59" East along the west line of Lots 27-26, a distance of 60.00 feet to the southwest corner of said Lot 25 as the True Point of Beginning; thence North 02°23'59" East along the west line thereof, a distance of 25.00 feet; thence South 87°11'34" East along the north line of said lot, a distance of 35.00 feet; thence South 02°23'59" West along a line parallel to the west line of said lot, a distance of 25.00 feet to a point on the south line of said lot; thence North 87°11'34" West along the south line thereof, a distance of 35.00 feet to the Point of Beginning. The above described tract of land contains 874.99 square feet, more or less.

2. The attorney general shall approve as to form the instruments of conveyance.

SECTION 8. TEMPORARY EASEMENT GRANTED FOR PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY. — 1. The governor is hereby authorized to grant a temporary easement for property managed by the department of mental health to the city of Kansas City, Missouri. The tract being a part of Block 5 in BOUTON'S ADDITION, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,157.64 feet; thence North 87°50'48" West along said centerline, a distance of 30.34 feet; thence North 02°09'12" East, a distance of 20.96 feet to the southeast corner of said Block 5; thence North 87°11'34" West along the south line thereof, a distance of 121.33 feet to a point 7.00 feet east of the southwest corner of said block; thence North 02°23'59" East along a line parallel to the west line thereof, a distance of 10.26 feet to the True Point of Beginning; thence North 02°23'59" East along a line parallel to the west line thereof, a distance of 55.00 feet; thence South 87°11'34" East along a line parallel to the south line thereof, a distance of 63.50 feet; thence North 02°23'59" East along a line parallel to the west line thereof, a distance of 65.00 feet; thence South 87°11'34" East along a line parallel to the south line thereof, a distance of 51.37 feet; thence North 02°23'59" East along a line parallel to the west line thereof, a distance of 45.64 feet; thence South 87°11'34" East along a line parallel to the south line thereof, a distance of 5.00 feet; thence South 02°23'59" West along a line parallel to the east line thereof, a distance of 138.91 feet; thence South 46°59'34" West, a distance of 37.28 feet; thence North 87°11'34" West along a line parallel to the south line thereof, a distance of 94.08 feet to the Point of Beginning. The above described tract of land contains 10,147.88 square feet, more or less.

2. A termination date for the easement shall be as negotiated by the parties.

3. The attorney general shall approve as to form the instruments of conveyance.

SECTION 9. CONVEYANCE OF PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY FOR A PUBLIC ROAD RIGHT-OF-WAY. — 1. The governor is hereby authorized to convey property managed by the department of mental health to the city of Kansas City, Missouri for the purpose of public road right-of-way. The tract being a part of Block 5 in BOUTON'S ADDITION, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence

North 87°17'05" West along said centerline, a distance of 1,157.64 feet; thence North 87°50'48" West along said centerline, a distance of 30.34 feet; thence North 02°09'12" East, a distance of 20.96 feet to the southeast corner of said Block 5 as the True Point of Beginning; thence North 87°11'34" West along the south line thereof, a distance of 121.33 feet to a point 7.00 feet east of the southwest corner of said block, also being on the East line of an alley created by Ordinance 10410, passed August 27, 1898; thence North 02°23'59" East along a line parallel to the west line thereof, and said East Alley line, a distance of 10.26 feet; thence South 87°11'34" East along a line parallel to the south line thereof, a distance of 94.08 feet; thence North 46°59'34" East, a distance of 37.28 feet; thence North 02°23'59" East along a line parallel to the east line thereof, a distance of 138.91 feet; thence South 87°11'34" East along a line parallel to the south line thereof, a distance of 1.00 feet to the east line of said block; thence South 02°23'59" West along the east line thereof, a distance of 175.91 feet to the Point of Beginning. The above described tract of land contains 1,759.54 square feet, more or less.

2. The attorney general shall approve as to form the instruments of conveyance.

SECTION 10. CONVEYANCE OF PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY FOR A PUBLIC ROAD RIGHT-OF-WAY. — 1. The governor is hereby authorized to convey property managed by the department of mental health to the city of Kansas City, Missouri, for the purpose of public road right-of-way. The tract being a part of Lot 1 and 24 in GRANDVIEW SUBDIVISION of Block 11, BOUTON'S ADDITION and the vacated alley between said lots, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,127.08 feet; thence South 02°42'55" West, a distance of 39.68 feet to the northwest corner of said Lot 1 as the True Point of Beginning; thence South 87°15'03" East along the north line thereof, a distance of 24.38 feet; thence South 46°15'45" West, a distance of 33.75 feet; thence South 02°23'59" West along a line parallel to the west line of said Lots 1 and 24, a distance of 130.53 feet to a point on the south line of said Lot 24; thence North 87°15'03" West along the south line thereof, a distance of 1.00 feet to the southwest corner of said Lot 24; thence North 02°23'59" East along the west line of said Lots 24 and 1, a distance of 155.00 feet to the Point of Beginning. The above described tract of land contains 441.15 square feet, more or less.

2. The attorney general shall approve as to form the instruments of conveyance.

SECTION 11. TEMPORARY EASEMENT GRANTED FOR PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY. — 1. The governor is hereby authorized to grant a temporary easement for property managed by the department of mental health to the city of Kansas City, Missouri. The tract being a part of Lot 1 and 24 in GRANDVIEW SUBDIVISION of Block 11, BOUTON'S ADDITION and the vacated alley between said lots, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,127.08 feet; thence South 02°42'55" West, a distance of 39.68 feet to the northwest corner of said Lot 1; thence South 87°15'03" East along the north line thereof, a distance of 24.38 feet; thence South 46°15'45" West, a distance of 22.20 feet to the True Point of Beginning; thence South

02°23'59" West along a line parallel to the west line of said Lots 1 and 24, a distance of 121.09 feet; thence North 87°15'03" West along a line parallel to the south line of said Lot 24, a distance of 8.00 feet; thence North 02°23'59" East along a line parallel to the west line of said Lots 1 and 24, a distance of 112.72 feet; thence North 46°15'45" East, a distance of 11.55 feet to the Point of Beginning. The above described tract of land contains 930.46 square feet, more or less.

2. A termination date for the easement shall be negotiated by the parties.
3. The attorney general shall approve as to form the instruments of conveyance.

SECTION 12. TEMPORARY EASEMENT GRANTED FOR PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY. — 1. The governor is hereby authorized to grant a temporary easement for property managed by the department of mental health to the city of Kansas City, Missouri. The tract being a part of Lots 7-8 inclusive in GRANDVIEW SUBDIVISION of Block 11, BOUTON'S ADDITION, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,127.08 feet; thence South 02°42'55" West, a distance of 39.68 feet to the northwest corner of said Lot 1; thence South 87°15'03" East along the North line of Lots 1-7 inclusive, a distance of 167.71 feet to the True Point of Beginning; thence South 87°15'03" East along the north line of said Lots 7-8 inclusive, a distance of 36.09 feet; thence South 02°23'59" West, a distance of 3.00 feet; thence North 87°15'03" West along a line parallel to the North line of said Lots 8-7, a distance of 36.09 feet; thence North 02°23'59" East, a distance of 3.00 feet to the Point of Beginning. The above described tract of land contains 108.22 square feet, more or less.

2. A termination date for the easement shall be as negotiated by the parties.
3. The attorney general shall approve as to form the instruments of conveyance.

SECTION 13. TEMPORARY EASEMENT GRANTED FOR PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY. — 1. The governor is hereby authorized to grant a temporary easement for property managed by the department of mental health to the city of Kansas City, Missouri. The tract being a part of Lots 1 and 2, and the north 15 feet of Lot 3, Block 10 of ELM GROVE ADDITION, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 727.05 feet; thence South 02°42'55" West, a distance of 39.91 feet to the northwest corner of Lot 1 as the Point of Beginning; thence South 87°15'03" East along the north line of said Lot 1, a distance of 39.95 feet; thence South 02°23'59" West along a line parallel to the west line of said Lot 1, a distance of 6.660 feet; thence North 87°15'03" West along a line parallel to the north line of said lot, a distance of 36.99 feet; thence South 02°23'59" West along a line parallel to the west line of said Lot 1-3 inclusive, a distance of 63.40 feet; thence North 87°15'03" West along a line parallel to the north line of said Lot 1, a distance of 3.00 feet to a point on the west line of said Lot 3; thence North 02°23'59" East along the west line of said Lots 3-1 inclusive, a distance of 70.00 feet to the Point of Beginning. The above described tract of land contains 452.53 square feet, more or less.

2. A termination date for the easement shall be as negotiated by the parties.

3. The attorney general shall approve as to form the instruments of conveyance.

SECTION 14. CONSIDERATION FOR CONVEYANCE OF PROPERTY. — Consideration for the conveyance of title to each of the parcels of property authorized by sections 1 to 13 of this act shall be the fair market value of the property as determined by the commissioner of administration. Consideration may be received in the form of money paid to the state of Missouri, or services provided by the City of Kansas City.

Approved June 27, 2002

SB 810 [HS HCS SCS SB 810]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Expands the Utilicare program for elderly, disabled, and other qualifying individuals.

AN ACT to repeal sections 8.231, 470.270, 640.651, 640.653, 660.100, 660.105, 660.110, 660.115, 660.120, 660.122, 660.135, 660.136, and 660.285, RSMo, and to enact in lieu thereof fifteen new sections relating to supplemental assistance payments for the elderly and disabled.

SECTION

- A. Enacting clause.
- 8.231. Guaranteed energy cost savings contracts, definitions — bids required, when — proposal request to include what — contract, to whom awarded, to contain certain guarantees.
- 8.235. Division of design and construction to contract for guaranteed energy cost savings contracts by bid, criteria, amount of cost reduction required.
- 470.270. Money or effects involved in litigation — disposition — unclaimed property, state may bring action to recover, when, exceptions.
- 640.651. Definitions.
- 640.653. Application and technical assistance report, content and form — loans, how granted — review and summary by agencies.
- 660.100. Financial assistance for heating — definitions.
- 660.105. Eligibility for assistance — income defined.
- 660.110. Coordination and administration of heating and cooling assistance programs into the Utilicare program by department of social services.
- 660.115. Utilicare payment, procedure.
- 660.122. Services disconnected or discontinued for failure to pay — eligibility for assistance.
- 660.135. Limitation on expenditures — utilicare stabilization fund.
- 660.136. Utilicare stabilization fund created — used for utilicare program.
- 660.285. Director may proceed under other law, when — retention of legal counsel, when.
- 660.690. Protection against spousal impoverishment and premature placement in institutional care, determination of eligibility for Medicaid and Medicare assistance benefits.
 - 1. No ordinance shall prohibit nonprofit organization from reselling donated goods in an area with other retailers, limitation.
- 660.120. Source of funds — households eligible for both utilicare and federal assistance, utilicare limitations.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 8.231, 470.270, 640.651, 640.653, 660.100, 660.105, 660.110, 660.115, 660.120, 660.122, 660.135, 660.136, and 660.285, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 8.231, 8.235, 470.270, 640.651, 640.653, 660.100, 660.105, 660.110, 660.115, 660.122, 660.135, 660.136, 660.285, 660.690, and 1, to read as follows:

8.231. GUARANTEED ENERGY COST SAVINGS CONTRACTS, DEFINITIONS — BIDS REQUIRED, WHEN — PROPOSAL REQUEST TO INCLUDE WHAT — CONTRACT, TO WHOM AWARDED, TO CONTAIN CERTAIN GUARANTEES. — 1. For purposes of this section, the following terms shall mean:

(1) "Energy cost savings measure", a training program or facility alteration designed to reduce energy consumption or operating costs, and may include one or more of the following:

(a) Insulation of the building structure or systems within the building;

(b) Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing reductions in glass area, or other window and door system modifications that reduce energy consumption;

(c) Automated or computerized energy control system;

(d) Heating, ventilating or air conditioning system modifications or replacements;

(e) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;

(f) Indoor air quality improvements to increase air quality that conforms to the applicable state or local building code requirements;

(g) Energy recovery systems;

(h) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(i) Any life safety measures that provide long-term operating cost reductions and are in compliance with state and local codes; [or]

(j) Building operation programs that reduce the operating costs; or

(k) Any life safety measures related to compliance with the Americans With Disabilities Act, 42 U.S.C. Section 12101, et seq., that provide long-term operating cost reductions and are in compliance with state and local codes;

(2) "Governmental unit", a state government agency, department, institution, college, university, technical school, legislative body or other establishment or official of the executive, judicial or legislative branches of this state authorized by law to enter into contracts, including all local political subdivisions such as counties, municipalities, public school districts or public service or special purpose districts;

(3) "Guaranteed energy cost savings contract", a contract for the implementation of one or more such measures. The contract shall provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time and the energy cost savings are guaranteed to the extent necessary to make payments for the systems. Guaranteed energy cost savings contracts shall be considered public works contracts to the extent that they provide for capital improvements to existing facilities;

(4) "Operational savings", expenses eliminated and future replacement expenditures avoided as a result of new equipment installed or services performed;

(5) "Qualified provider", a person or business experienced in the design, implementation and installation of energy cost savings measures;

(6) "Request for proposals" or "RFP", a negotiated procurement.

2. No governmental unit shall enter into a guaranteed energy cost savings contract until competitive proposals therefor have been solicited by the means most likely to reach those contractors interested in offering the required services, including but not limited to direct mail solicitation, electronic mail and public announcement on bulletin boards, physical or electronic. The request for proposal shall include the following:

(1) The name and address of the governmental unit;

(2) The name, address, title and phone number of a contact person;

(3) The date, time and place where proposals shall be received;

- (4) The evaluation criteria for assessing the proposals; and
 - (5) Any other stipulations and clarifications the governmental unit may require.
3. The governmental unit shall award a contract to the qualified provider that provides the lowest and best proposal which meets the needs of the unit if it finds that the amount it would spend on the energy cost savings measures recommended in the proposal would not exceed the amount of energy or operational savings, or both, within a ten-year period from the date installation is complete, if the recommendations in the proposal are followed. The governmental unit shall have the right to reject any and all bids.
4. The guaranteed energy cost savings contract shall include a written guarantee of the qualified provider that either the energy or operational cost savings, or both, will meet or exceed the costs of the energy cost savings measures, adjusted for inflation, within ten years. The qualified provider shall reimburse the governmental unit for any shortfall of guaranteed energy cost savings on an annual basis. The guaranteed energy cost savings contract may provide for payments over a period of time, not to exceed ten years, subject to appropriation of funds therefor.
5. The governmental unit shall include in its annual budget and appropriations measures for each fiscal year any amounts payable under guaranteed energy savings contracts during that fiscal year.
6. A governmental unit may use designated funds for any guaranteed energy cost savings contract including purchases using installment payment contracts or lease purchase agreements, so long as that use is consistent with the purpose of the appropriation.
7. Notwithstanding any provision of this section to the contrary, a not-for-profit corporation incorporated pursuant to chapter 355, RSMo, and operating primarily for educational purposes in cooperation with public or private schools shall be exempt from the provisions of this section.

8.235. DIVISION OF DESIGN AND CONSTRUCTION TO CONTRACT FOR GUARANTEED ENERGY COST SAVINGS CONTRACTS BY BID, CRITERIA, AMOUNT OF COST REDUCTION REQUIRED. — 1. Notwithstanding subsection 3 of section 8.231 and section 34.040, RSMo, the division of design and construction is hereby authorized to contract for guaranteed energy cost savings contracts by selecting a bid for proposal from a contractor or team of contractors using the following criteria:

- (1) The specialized experience and technical competence of the firm or team with respect to the type of services required;
- (2) The capacity and capability of the firm or team to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project; and
- (3) The past record of performance of the firm or team with respect to such factors as control of costs, quality of work and ability to meet schedules.

2. Each guaranteed energy cost saving contract, authorized pursuant to this section, shall reduce the estimated energy consumption by a minimum of twelve percent or reduce the cost of energy and related savings by a minimum of twelve percent.

3. The guaranteed energy cost saving contract shall otherwise be in accordance with the provisions of section 8.231.

4. The division of design and construction is authorized to use this procurement process for eight projects.

470.270. MONEY OR EFFECTS INVOLVED IN LITIGATION — DISPOSITION — UNCLAIMED PROPERTY, STATE MAY BRING ACTION TO RECOVER, WHEN, EXCEPTIONS. — After the owner, his or her assignee, personal representative, grantee, heirs, devisees or other successors, entitled to any moneys, refund of rates or premiums or effects by reason of any litigation concerning rates, refunds, refund of premiums, fares or charges collected by any person or corporation in the state of Missouri for any service rendered or to be rendered in said state, or for any contract of

insurance on property in this state, or under any contract of insurance performed or to be performed in said state, which moneys, refund of rates or premiums or effects have been paid into or deposited in connection with any cause in any court of the state of Missouri or in connection with any cause in any United States court, or so paid into the custody of any depository, clerk, custodian, or other officer of such court, whether the same be afterwards transferred and deposited in the United States treasury or not, shall be and remain unknown, or the whereabouts of such person or persons shall be and has been unknown, for the period heretofore, or hereafter, of five successive years, or such moneys, refund of rates or premiums or effects remain unclaimed for the period heretofore, or hereafter, of five successive years, from the time such moneys or property are ordered repaid or distributed by such courts, such moneys or property shall be escheatable to the state of Missouri, and may be escheated to the state of Missouri in the manner herein provided, with all interest and earnings actually accrued thereon to the date of the judgment and decree for the escheat of the same; **except that all refunds of rates generated by the refund of natural gas or electric rates shall be transferred to the utilicare stabilization fund created pursuant to section 660.136, RSMo, with the exception of lawsuits in which the state of Missouri is a party, if the moneys that result from a refund of rates remains unclaimed after five years from the date when such rates are ordered repaid, with all interest from such refunded rates that is earned from the date such rates are ordered repaid to escheat to the state as otherwise provided in sections 470.270 to 470.350.** The provisions of this section notwithstanding, this state may elect to take custody of such unclaimed property by instituting a proceeding pursuant to section 447.575, RSMo.

640.651. DEFINITIONS. — As used in sections 640.651 to 640.686, the following terms mean:

(1) "Applicant", any school, hospital, small business, local government or other energy-using sector or entity authorized by the department through administrative rule, which submits an application for loans on financial assistance to the department;

(2) "Application cycle", the period of time each year, as determined by the department, that the department shall accept and receive applications seeking loans or financial assistance under the provisions of sections 640.651 to 640.686;

(3) "Authority", the environmental improvement and energy resources authority;

(4) "Borrower", a recipient of loan or other financial assistance program funds subsequent to the execution of loan or financial assistance documents with the department or other applicable parties provided that a building owned by the state or an agency thereof **other than a state college or state university**, shall not be eligible for loans or financial assistance pursuant to sections 640.651 to 640.686;

(5) "Building", including initial installation in a new building, any applicant-owned and -operated structure, group of closely situated structural units that are centrally metered or served by a central utility plant, or an eligible portion thereof, which includes a heating or cooling system, or both;

(6) "Department", the department of natural resources;

(7) "Energy conservation loan account", an account to be established on the books of a borrower for purposes of tracking information related to the receipt or expenditure of the loan funds or financial assistance, and to be used to receive and remit energy cost savings for purposes of making payments on the loan or financial assistance;

(8) "Energy conservation measure" or "ECM", an installation or modification of an installation in a building or replacement or modification to an energy-consuming process or system which is primarily intended to maintain or reduce energy consumption and reduce energy costs, or allow the use of an alternative or renewable energy source;

(9) "Energy conservation project" or "project", the design, acquisition, installation, and implementation of one or more energy conservation measures;

(10) "Energy cost savings" or "savings", the value, in terms of dollars, that has or is estimated to accrue from energy savings or avoided costs due to implementation of an energy conservation project;

(11) "Estimated simple payback", the estimated cost of a project divided by the estimated energy cost savings;

(12) "Fund", the energy set-aside program fund established in section 640.665;

(13) "Hospital", a facility as defined in subsection 2 of section 197.020, RSMo, including any medical treatment or related facility controlled by a hospital board;

(14) "Hospital board", the board of directors having general control of the property and affairs of the hospital facility;

(15) "Loan agreement", a document agreed to by the borrower's school, hospital or corporate board, principals of a business, the governing body of a local government or other authorized officials and the department or other applicable parties and signed by the authorized official thereof, that details all terms and requirements under which the loan is issued or other financial assistance granted, and describes the terms under which the loan or financial assistance repayment shall be made;

(16) "Payback score", a numeric value derived from the review of an application, calculated as prescribed by the department, which may include an estimated simple payback or life-cycle costing method of economic analysis and used solely for purposes of ranking applications for the selection of loan and financial assistance recipients within the balance of program funds available;

(17) "Project cost", all costs determined by the department to be directly related to the implementation of an energy conservation project, and, for initial installation in a new building, shall include the incremental cost of a high-efficiency system;

(18) ["Repayment period", unless otherwise negotiated as required under section 640.660, the period in years required to repay a loan or financial assistance as determined by the projects' estimated simple payback or life-cycle costing analysis, and rounded to the next year in cases where the estimated simple payback or life-cycle costing analysis is in a fraction of a year;

(19)] "School", an institution operated by a **state college or state university**, public agency, political subdivision or a public or private nonprofit organization tax exempt under section 501(c)(3) of the Internal Revenue Code which:

(a) Provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis;

(b) Provides and is legally authorized to provide a program of education beyond secondary education, on a day or residential basis; admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate; is accredited by a nationally recognized accrediting agency or association; and provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the preceding requirements and which provides such a program; or

(c) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation; provides and is legally authorized to provide a program of education beyond secondary education, on a day or residential basis; admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate; and is accredited by a nationally recognized accrediting agency or association;

[(20)] (19) "School board", the board of education having general control of the property and affairs of any school as defined in this section;

[(21)] (20) "Technical assistance report", a specialized engineering report that identifies and specifies the quantity of energy savings and related energy cost savings that are likely to result from the implementation of one or more energy conservation measures;

[(22)] (21) "Unobligated balance", that amount in the fund that has not been dedicated to any projects at the end of each state fiscal year.

640.653. APPLICATION AND TECHNICAL ASSISTANCE REPORT, CONTENT AND FORM — LOANS, HOW GRANTED — REVIEW AND SUMMARY BY AGENCIES. — 1. An application for loan funds or other financial assistance may be submitted to the department for the purpose of financing all or a portion of the costs incurred in implementing an energy conservation project. The application shall be accompanied by a technical assistance report. The application and the technical assistance report shall be in such form and contain such information, financial or otherwise, as prescribed by the department. This section shall not preclude any applicant or borrower from joining in a cooperative project with any other local government or with any state or federal agency or entity in an energy conservation project; provided that, all other requirements of sections 640.651 to 640.686 are met.

2. Eligible applications shall be assigned a payback score derived from the application review performed by the department. Applications shall be selected for loans and financial assistance beginning with the lowest payback score and continuing in ascending order to the highest payback score until all available program funds have been obligated within any given application cycle. The selection criteria may be applied per sector or entity to assure equity pursuant to section 640.674. In no case shall a loan or financial assistance be made to finance an energy project with a payback score of less than six months or more than **ten years or eighty percent of the expected useful life of the energy conservation measures when the expected useful life exceeds ten years**. Repayment periods are to be determined by the department. Applications may be approved for loans or financial assistance only in those instances where the applicant has furnished the department information satisfactory to assure that the project cost will be recovered through energy cost savings during the repayment period of the loan or financial assistance. In no case shall a loan or financial assistance be made to an applicant unless the approval of the governing board or body of the applicant to the loan agreement is obtained and a written certification of such approval is provided, where applicable.

3. The department shall approve or disapprove all applications for loans or financial assistance which are sent by certified or registered mail or hand delivered and received by the department's division of energy on, or prior to, the ninetieth day following the date of application cycle closing. Any applications which are not acted upon by the department by such date shall be deemed to be approved as submitted.

4. The department of elementary and secondary education shall be provided a summary of all proposed public elementary and secondary school projects for review within fifteen days from the application deadline. Once projects have been reviewed and selected for loans or financial assistance by the department, the department of elementary and secondary education shall have thirty days to certify that those projects selected for loans or financial assistance are consistent with related state programs for public education facilities.

5. The department of health and senior services shall be provided a summary of all proposed hospital projects for review within fifteen days from the application deadline. Once projects have been reviewed and selected for loans or financial assistance by the department of natural resources, the department of health and senior services shall have thirty days to certify that those projects selected for loans or financial assistance are consistent with related health requirements for hospital facilities.

6. The coordinating board for higher education shall be provided a summary of all proposed public higher education facility projects for review within fifteen days from the application deadline. Once projects have been reviewed and selected for loans and financial assistance by the department, the coordinating board for higher education shall have thirty days to certify that those projects selected for loans or financial assistance are consistent with related state programs for education facilities.

660.100. FINANCIAL ASSISTANCE FOR HEATING — DEFINITIONS. — 1. The department of social services is directed to establish a plan for providing financial assistance to elderly households, disabled households and qualified individual households for the payment of charges for the primary or secondary heating or cooling source for the household. This plan shall be known as "Utilicare".

2. For purposes of sections 660.100 to 660.136, the term "elderly" shall mean having reached the age of sixty-five and the term "disabled" shall mean totally and permanently disabled or blind and receiving federal Social Security disability benefits, federal supplemental security income benefits, veterans administration benefits, state blind pension pursuant to sections 209.010 to 209.160, RSMo, state aid to blind persons pursuant to section 209.240, RSMo, or state supplemental payments pursuant to section 208.030, RSMo. For the purposes of sections 660.100 to 660.136, but not for the purpose of determining "eligible subscribers" pursuant to subdivision (4) of section 660.138, the term "qualified individual household" shall mean a household in which:

(1) One or more residents of the state of Missouri reside and whose combined household income is less than or equal to one hundred and [ten] **fifty** percent of the current federal poverty level **or sixty percent of the state median income** for the relevant household; and

(2) While the Federal Low Income Home Energy Assistance Program remains in effect, the household is also determined to be eligible for assistance under such program and related state programs of the Missouri department of social services.

660.105. ELIGIBILITY FOR ASSISTANCE — INCOME DEFINED. — Every qualified individual household for which an application is made, and every applicant household in which the head of the household or spouse is elderly or disabled and the income for the prior calendar year does not exceed one hundred and [ten] **fifty** percent of the current federal poverty level **or sixty percent of the state median income**, shall be an "eligible household" and shall be entitled to receive assistance under the utilicare program if moneys have been appropriated by the general assembly to the utilicare stabilization fund established pursuant to section 660.136. "Income" shall be as defined in section 135.010, RSMo.

660.110. COORDINATION AND ADMINISTRATION OF HEATING AND COOLING ASSISTANCE PROGRAMS INTO THE UTILICARE PROGRAM BY DEPARTMENT OF SOCIAL SERVICES. — The department of social services shall be responsible for coordination of all federal heating assistance programs [as well as] **into** the utilicare program and shall provide plans for the implementation and administration of these programs. [Except as otherwise provided in sections 660.100 to 660.136, the utilicare program shall be administered in the same manner as the Federal Low Income Emergency Assistance Program.] The department may contract with local not-for-profit community agencies which render energy assistance pursuant to affiliation or contract with the United States Community Service Administration or another federal agency to distribute the federal moneys [and], to administer the federal heating and cooling assistance programs in accordance with the plan developed by the department[. The department may contract with local not-for-profit community agencies which render energy assistance pursuant to affiliation or contract with the United States Community Service Administration or another federal agency] **and** to provide certain administrative services in connection with the utilicare program which may include the processing of utilicare applications and any other service which the department deems practical. Insofar as possible, within the provisions of federal law and regulations, all payments made from funds available from the Crude Oil Windfall Profit Tax Act of 1980 and other federal sources shall be made directly to energy suppliers in a manner similar to payments made under the state utilicare program.

660.115. UTILICARE PAYMENT, PROCEDURE. — 1. For each eligible household, an amount not exceeding [one hundred fifty] **six hundred** dollars for each fiscal year may be paid

from the utilicare stabilization fund to the primary or secondary heating source supplier, or both, including suppliers of heating fuels, such as gas, electricity, wood, coal, propane and heating oil. For each eligible household, an amount not exceeding [one hundred fifty] **six hundred** dollars for each fiscal year may be paid from the utilicare stabilization fund to the primary or secondary cooling source supplier, or both[.]; **provided that the respective shares of overall funding previously received by primary and secondary heating and cooling source suppliers on behalf of their customers shall be substantially maintained.** [Notwithstanding any other provision of sections 610.100 to 660.136 to the contrary, the amount paid from the utilicare stabilization fund for cooling assistance in any single cooling season shall not exceed the lesser of five percent of the total amount appropriated by the general assembly to the fund for the most recent fiscal year or five hundred thousand dollars.]

2. For an eligible household, other than a household located in publicly owned or subsidized housing, an adult boarding facility, an intermediate care facility, a residential care facility or a skilled nursing facility, whose members rent their dwelling and do not pay a supplier directly for the household's primary or secondary heating or cooling source, utilicare payments shall be paid directly to the head of the household, except that total payments shall not exceed eight percent of the household's annual rent or one hundred dollars, whichever is less.

660.122. SERVICES DISCONNECTED OR DISCONTINUED FOR FAILURE TO PAY — ELIGIBILITY FOR ASSISTANCE. — [Notwithstanding any other provision of sections 660.100 to 660.136 to the contrary,] Funds appropriated under the authority of sections 660.100 to 660.136 may be used to pay the expenses of reconnecting or maintaining service to households that have had their primary or secondary heating or cooling source disconnected or service discontinued because of their failure to pay their bill. Any qualified household or other household which has as its head a person who is elderly or disabled, as defined in section 660.100, shall be eligible for assistance under this section if the income for the household is no more than one hundred [ten] **fifty** percent of the current federal poverty level **or sixty percent of the state median income** and if moneys have been appropriated by the general assembly to the utilicare stabilization fund established pursuant to section 660.136. Payments under this section shall be made directly to the primary or secondary heating or cooling source supplier. Any primary or secondary heating or cooling source supplier subject to the supervision and regulation of the public service commission shall, at any time during the period of the cold weather rule specified in the cold weather rule as established and as amended by the public service commission, reconnect and provide services to each household eligible for assistance under this section in compliance with the terms of such cold weather rule. All home energy suppliers receiving funds under this section shall provide service to eligible households consistent with their contractual agreements with the department of social services. [Notwithstanding the above, the division of family services shall only utilize general revenue funds appropriated in conjunction with this chapter after such time as the division has obligated all federal emergency funds available for the purposes enumerated above.]

660.135. LIMITATION ON EXPENDITURES — UTILICARE STABILIZATION FUND. — 1. Not more than five million dollars from state general revenue shall be appropriated by the general assembly to the utilicare stabilization fund established pursuant to section 660.136 for the support of the utilicare program established by sections 660.100 to 660.136 for any fiscal year, except in succeeding years the amount of state funds may be increased by a percentage which reflects the national cost-of-living index or seven percent, whichever is lower.

2. The department of social services may, in coordination with the department of natural resources, apply a portion of the funds appropriated annually by the general assembly to the utilicare stabilization fund established pursuant to section 660.136 to the low income weatherization assistance program of the department of natural resources; provided that any project financed with such funds shall [have a full energy savings payback period of no greater

than ten years] be consistent with federal guidelines for the Weatherization Assistance Program for Low-Income Persons as authorized by 42 U.S.C. 6861.

660.136. UTILICARE STABILIZATION FUND CREATED — USED FOR UTILICARE PROGRAM. — 1. The "Utilicare Stabilization Fund" is hereby created in the state treasury to support the provisions of sections 660.100 to 660.136. **Funds for the utilicare program may come from state, federal or other sources including funds received by this state from the federal government under the provisions of the Community Opportunities Accountability and Training and Educational Services Act of 1998 (Title III, Section 301-309, Public Law 93.568), together with any interest or other earnings on the principal of this fund. Except as provided in subsection 3, moneys in the utilicare stabilization fund [that are not required to meet or augment the utilicare funding requirements of the state in any fiscal year shall be invested by the state treasurer in the same manner as other surplus funds are invested. Interest, dividends and moneys earned on such investments shall be credited to the utilicare stabilization fund. Such fund may also receive gifts, grants, contributions, appropriations and funds or benefits from any other source or sources, and make investments of the unexpended balances thereof] shall be used for the purposes established in the Federal Low Income Home Energy Assistance Program and sections 660.100 to 660.136.**

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the fund for the preceding fiscal year. The amount, if any, in the fund, which shall lapse, is that amount in the fund which exceeds the appropriate multiple of the appropriations from the fund for the preceding fiscal year. Moneys in the utilicare fund not needed currently for the purposes designated in sections 660.100 to 660.136, may be invested by the state treasurer in the manner that other moneys of the state are authorized by law to be invested. All interest, income and returns from moneys of the utilicare stabilization fund shall be deposited in the state treasury to the credit of the utilicare stabilization fund.

3. When the utilicare stabilization fund receives a transfer pursuant to section 470.270, RSMo, the moneys from that transfer shall be held in the fund for one full year after the date of transfer and shall be used to pay for heating or cooling assistance as provided in sections 660.100 to 660.136. Any moneys remaining at the end of that year shall be deposited in the state treasury to the credit of the general revenue fund of the state.

660.285. DIRECTOR MAY PROCEED UNDER OTHER LAW, WHEN — RETENTION OF LEGAL COUNSEL, WHEN. — 1. If the director determines after an investigation that an eligible adult is unable to give consent to receive protective services and presents a likelihood of serious physical harm, the director may initiate proceedings pursuant to chapter 202, RSMo, or chapter 475, RSMo, if appropriate.

2. In order to expedite adult guardianship and conservatorship cases, the department may retain, within existing funding sources of the department, legal counsel on a case-by-case basis.

660.690. PROTECTION AGAINST SPOUSAL IMPOVERISHMENT AND PREMATURE PLACEMENT IN INSTITUTIONAL CARE, DETERMINATION OF ELIGIBILITY FOR MEDICAID AND MEDICARE ASSISTANCE BENEFITS. — In order to protect the community spouse of an individual living in a residential care facility I or residential care facility II, as defined in section 198.006, RSMo, from impoverishment and to prevent premature placement in a more expensive, more restrictive environment, the division of family services shall comply with the provisions of subsection 6 of section 208.010, RSMo, when determining the eligibility for benefits pursuant to section 208.030, RSMo.

SECTION 1. NO ORDINANCE SHALL PROHIBIT NONPROFIT ORGANIZATION FROM RESELLING DONATED GOODS IN AN AREA WITH OTHER RETAILERS, LIMITATION. — Notwithstanding any provision of section 89.020, RSMo, to the contrary, the legislative body of all cities, towns, and villages is hereby prohibited from passing any zoning law, ordinance, or code that would prevent any entity organized pursuant to Section 501(c)(3) of the Internal Revenue Code that owns or operates a retail business engaged in the practice of reselling donated goods from operating a business establishment within any area where any other business engaged in retail sales is permitted to operate; provided that at least eighty percent of all revenue generated by such entity is used to fund the charitable purpose of the organization.

[660.120. SOURCE OF FUNDS — HOUSEHOLDS ELIGIBLE FOR BOTH UTILICARE AND FEDERAL ASSISTANCE, UTILICARE LIMITATIONS. — 1. Funds for the utilicare program may come from state, federal, or other sources.

2. Any household which is eligible to receive both federal assistance and utilicare assistance in paying for its primary or secondary heating or cooling source may receive utilicare assistance only as follows: In the event that the federal assistance available to such household is less than the total benefits available to the household under the provisions of section 660.115, then the household may receive utilicare assistance only in an amount equal to the amount of the difference between the federal assistance available in paying for its primary or secondary heating or cooling source and the total benefits available to such household under the provisions of section 660.115.]

Approved July 2, 2002

SB 812 [SB 812]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires all executive orders to be published in the Missouri Register after January 1, 2003.

AN ACT to repeal section 536.035, RSMo, relating to the publication of executive orders in the Missouri Register, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

536.035. Rules and orders to be permanent public record — publication in Missouri Register required.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 536.035, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 536.035, to read as follows:

536.035. RULES AND ORDERS TO BE PERMANENT PUBLIC RECORD — PUBLICATION IN MISSOURI REGISTER REQUIRED. — 1. All rules or executive orders filed with the secretary of state pursuant to sections 536.015 to 536.043 shall be retained permanently and shall be open to public inspection at all reasonable times.

2. Beginning January 1, 2003, all executive orders issued after said date shall be published in the Missouri Register.

Approved July 12, 2002

SB 831 [SB 831]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes December 15 as Bill of Rights Day.

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to public holidays.

SECTION

- A. Enacting clause.
9.141. Bill of Rights Day established.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.141, to read as follows:

9.141. BILL OF RIGHTS DAY ESTABLISHED. — **December fifteenth is hereby established as the "Bill of Rights Day" in Missouri to provide an opportunity for the people of Missouri to reflect upon the meaning, importance and uniqueness of this document. The people of the state, offices of government, and all civic organizations in the state are requested to devote a part of the day to the bill of rights. The bill of rights should be read in public schools and the day should be remembered with appropriate exercises. The bill of rights should be read in all courtrooms that meet or convene and the bill of rights shall be read in both chambers of the general assembly on the first legislative day after bill of rights day.**

Approved July 3, 2002

SB 834 [HS HCS SCS SB 834]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows Sunday liquor sales by the drink at establishments within an international airport.

AN ACT to repeal sections 311.070, 311.178, and 311.680, RSMo, and to enact in lieu thereof four new sections relating to liquor control.

SECTION

- A. Enacting clause.
311.070. Financial interest in retail businesses by certain licensees prohibited, exceptions — penalties — definitions — activities permitted between wholesalers and licensees — certain contracts unenforceable — contributions to certain organizations permitted, when — sale of Missouri wines only, license issued, when.
311.178. Convention trade area, St. Louis County, liquor sale by drink, extended hours for business, requirements, fee — resort defined — special permit for liquor sale by drink, Miller, Morgan, and Camden counties, expiration date.
311.481. Sunday liquor sales for airline clubs.
311.680. Disorderly place, warning, probation, suspension or revocation of license, when, notice — civil penalties — meet and confer opportunity, when.
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Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 311.070, 311.178, and 311.680, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 311.070, 311.178, 311.481, and 311.680, to read as follows:

311.070. FINANCIAL INTEREST IN RETAIL BUSINESSES BY CERTAIN LICENSEES PROHIBITED, EXCEPTIONS — PENALTIES — DEFINITIONS — ACTIVITIES PERMITTED BETWEEN WHOLESALERS AND LICENSEES — CERTAIN CONTRACTS UNENFORCEABLE — CONTRIBUTIONS TO CERTAIN ORGANIZATIONS PERMITTED, WHEN — SALE OF MISSOURI WINES ONLY, LICENSE ISSUED, WHEN. — 1. Distillers, wholesalers, winemakers, brewers or their employees, officers or agents, shall not, except as provided in this section, directly or indirectly, have any financial interest in the retail business for sale of intoxicating liquors, and shall not, except as provided in this section, directly or indirectly, loan, give away or furnish equipment, money, credit or property of any kind, except ordinary commercial credit for liquors sold to such retail dealers. However, notwithstanding any other provision of this chapter to the contrary, for the purpose of the promotion of tourism, a distiller whose manufacturing establishment is located within this state may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor, as in this chapter defined, by the drink at retail for consumption on the premises where sold; and provided further that the premises so licensed shall be in close proximity to the distillery and may remain open between the hours of 6:00 a.m. and midnight, Monday through Saturday and between the hours of 11:00 a.m. and 9:00 p.m., Sunday. The authority for the collection of fees by cities and counties as provided in section 311.220, and all other laws and regulations relating to the sale of liquor by the drink for consumption on the premises where sold, shall apply to the holder of a license issued under the provisions of this section in the same manner as they apply to establishments licensed under the provisions of section 311.085, 311.090, or 311.095.

2. Any distiller, wholesaler, winemaker or brewer who shall violate the provisions of subsection 1 of this section, or permit his employees, officers or agents to do so, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as follows:

- (1) For the first offense, by a fine of one thousand dollars;
- (2) For a second offense, by a fine of five thousand dollars; and
- (3) For a third or subsequent offense, by a fine of ten thousand dollars or the license of such person shall be revoked.

3. As used in this section, the following terms mean:

(1) "Consumer advertising specialties", advertising items that are designed to be carried away by the consumer, such items include, but are not limited to: trading stamps, nonalcoholic mixers, pouring racks, ash trays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, postcards, pencils, shirts, caps and visors;

(2) "Equipment and supplies", glassware (or similar containers made of other material), dispensing accessories, carbon dioxide (and other gasses used in dispensing equipment) or ice. "Dispensing accessories" include standards, faucets, cold plates, rods, vents, taps, tap standards, hoses, washers, couplings, gas gauges, vent tongues, shanks, and check valves;

(3) "Point of sale advertising materials", advertising items designed to be used within a retail business establishment to attract consumer attention to the products of a distiller, wholesaler, winemaker or brewer. Such materials include, but are not limited to: posters, placards, designs, inside signs (electric, mechanical or otherwise), window decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars and alcoholic beverage lists or menus;

(4) "Product display", wine racks, bins, barrels, casks, shelving or similar items the primary function of which is to hold and display consumer products;

(5) "Promotion", an advertising and publicity campaign to further the acceptance and sale of the merchandise or products of a distiller, wholesaler, winemaker or brewer.

4. Notwithstanding other provisions contained herein, the distiller, wholesaler, winemaker or brewer, or their employees, officers or agents may engage in the following activities with a retail licensee licensed pursuant to this chapter or chapter 312, RSMo:

(1) The distiller, wholesaler, winemaker or brewer may give or sell product displays to a retail business if all of the following requirements are met:

(a) The total value of all product displays given or sold to a retail business shall not exceed three hundred dollars per brand at any one time in any one retail outlet. There shall be no combining or pooling of the three hundred dollar limits to provide a retail business a product display in excess of three hundred dollars per brand. The value of a product display is the actual cost to the distiller, wholesaler, winemaker or brewer who initially purchased such product display. Transportation and installation costs shall be excluded;

(b) All product displays shall bear in a conspicuous manner substantial advertising matter on the product or the name of the distiller, wholesaler, winemaker or brewer. The name and address of the retail business may appear on the product displays; and

(c) The giving or selling of product displays may be conditioned on the purchase of intoxicating beverages advertised on the displays by the retail business in a quantity necessary for the initial completion of the product display. No other condition shall be imposed by the distiller, wholesaler, winemaker or brewer on the retail business in order for such retail business to obtain the product display;

(2) Notwithstanding any provision of law to the contrary, the distiller, wholesaler, winemaker or brewer may give or sell any point of sale advertising materials and consumer advertising specialties to a retail business if all the following requirements are met:

(a) The total value of all point of sale advertising materials and consumer advertising specialties given or sold to a retail business shall not exceed five hundred dollars per year, per brand, per retail outlet. The value of point-of-sale advertising materials and consumer advertising specialties is the actual cost to the distiller, wholesaler, winemaker or brewer who initially purchased such item. Transportation and installation costs shall be excluded;

(b) All point-of-sale advertising materials and consumer advertising specialties shall bear in a conspicuous manner substantial advertising matter about the product or the name of the distiller, wholesaler, winemaker or brewer. The name, address and logos of the retail business may appear on the point-of-sale advertising materials or the consumer advertising specialties; and

(c) The distiller, wholesaler, winemaker or brewer shall not directly or indirectly pay or credit the retail business for using or distributing the point-of-sale advertising materials or consumer advertising specialties or for any incidental expenses arising from their use or distribution;

(3) A malt beverage wholesaler or brewer may give a gift not to exceed a value of one thousand dollars per year, or sell something of value to a holder of a temporary permit as defined in section 311.482;

(4) The distiller, wholesaler, winemaker or brewer may sell equipment or supplies to a retail business if all the following requirements are met:

(a) The equipment and supplies shall be sold at a price not less than the cost to the distiller, wholesaler, winemaker or brewer who initially purchased such equipment and supplies; and

(b) The price charged for the equipment and supplies shall be collected in accordance with credit regulations as established in the code of state regulations;

(5) The distiller, wholesaler, winemaker or brewer may install dispensing accessories at the retail business establishment, which shall include for the purposes of intoxicating and nonintoxicating beer equipment to properly preserve and serve draught beer only and to facilitate the delivery to the retailer the brewers and wholesalers may lend, give, rent or sell and they may install or repair any of the following items or render to retail licensees any of the following services: beer coils and coil cleaning, sleeves and wrappings, box couplings and draft arms, beer

faucets and tap markers, beer and air hose, taps, vents and washers, gauges and regulators, beer and air distributors, beer line insulation, coil flush hose, couplings and bucket pumps; portable coil boxes, air pumps, blankets or other coverings for temporary wrappings of barrels, coil box overflow pipes, tilting platforms, bumper boards, skids, cellar ladders and ramps, angle irons, ice box grates, floor runways; and damage caused by any beer delivery excluding normal wear and tear and a complete record of equipment furnished and installed and repairs and service made or rendered must be kept by the brewer or wholesalers furnishing, making or rendering same for a period of not less than one year;

(6) The distiller, wholesaler, winemaker or brewer may furnish, give or sell coil cleaning service to a retailer of distilled spirits, wine or malt beverages;

(7) A wholesaler of intoxicating liquor may furnish or give and a retailer may accept a sample of distilled spirits or wine as long as the retailer has not previously purchased the brand from that wholesaler, if all the following requirements are met:

(a) The wholesaler may furnish or give not more than seven hundred fifty milliliters of any brand of distilled spirits and not more than seven hundred fifty milliliters of any brand of wine; if a particular product is not available in a size within the quantity limitations of this subsection, a wholesaler may furnish or give to a retailer the next larger size;

(b) The wholesaler shall keep a record of the name of the retailer and the quantity of each brand furnished or given to such retailer;

(c) For the purposes of this subsection, no samples of intoxicating liquor provided to retailers shall be consumed on the premises nor shall any sample of intoxicating liquor be opened on the premises of the retailer except as provided by the retail license;

(d) For the purpose of this subsection, the word "brand" refers to differences in brand name of product or differences in nature of product; examples of different brands would be products having a difference in: brand name; class, type or kind designation; appellation of origin (wine); viticulture area (wine); vintage date (wine); age (distilled spirits); or proof (distilled spirits); differences in packaging such as a different style, type, size of container, or differences in color or design of a label are not considered different brands;

(8) The distiller, wholesaler, winemaker or brewer may package and distribute intoxicating beverages in combination with other nonalcoholic items as originally packaged by the supplier for sale ultimately to consumers; notwithstanding any provision of law to the contrary, for the purpose of this subsection, intoxicating liquor and wine wholesalers are not required to charge for nonalcoholic items any more than the actual cost of purchasing such nonalcoholic items from the supplier;

(9) The distiller, wholesaler, winemaker or brewer may sell or give the retail business newspaper cuts, mats or engraved blocks for use in the advertisements of the retail business;

(10) The distiller, wholesaler, winemaker or brewer may in an advertisement list the names and addresses of two or more unaffiliated retail businesses selling its product if all of the following requirements are met:

(a) The advertisement shall not contain the retail price of the product;

(b) The listing of the retail businesses shall be the only reference to such retail businesses in the advertisement;

(c) The listing of the retail businesses shall be relatively inconspicuous in relation to the advertisement as a whole; and

(d) The advertisement shall not refer only to one retail business or only to a retail business controlled directly or indirectly by the same retail business;

(11) Notwithstanding any other provision of law to the contrary, distillers, winemakers, wholesalers, brewers or retailers may conduct a local or national sweepstakes/contest upon a licensed retail premise. However, no money or something of value may be given to the retailer for the privilege or opportunity of conducting the sweepstakes or contest;

(12) The distiller, wholesaler, winemaker or brewer may stock, rotate, rearrange or reset the products sold by such distiller, wholesaler, winemaker or brewer at the establishment of the retail

business so long as the products of any other distiller, wholesaler, winemaker or brewer are not altered or disturbed;

(13) The distiller, wholesaler, winemaker or brewer may provide a recommended shelf plan or shelf schematic for distilled spirits, wine or malt beverages;

(14) The distiller, wholesaler, winemaker or brewer participating in the activities of a retail business association may do any of the following:

- (a) Display its products at a convention or trade show;
- (b) Rent display booth space if the rental fee is the same paid by all others renting similar space at the association activity;
- (c) Provide its own hospitality which is independent from the association activity;
- (d) Purchase tickets to functions and pay registration fees if such purchase or payment is the same as that paid by all attendees, participants or exhibitors at the association activity; and
- (e) Make payments for advertisements in programs or brochures issued by retail business associations at a convention or trade show if the total payments made for all such advertisements do not exceed three hundred dollars per year for any retail business association;

(15) The distiller, wholesaler, winemaker or brewer may sell its other merchandise which does not consist of intoxicating beverages to a retail business if the following requirements are met:

- (a) The distiller, wholesaler, winemaker or brewer shall also be in business as a bona fide producer or vendor of such merchandise;
- (b) The merchandise shall be sold at its fair market value;
- (c) The merchandise is not sold in combination with distilled spirits, wines or malt beverages except as provided in this section;
- (d) The acquisition or production costs of the merchandise shall appear on the purchase invoices or records of the distiller, wholesaler, winemaker or brewer; and
- (e) The individual selling prices of merchandise and intoxicating beverages sold to a retail business in a single transaction shall be determined by commercial documents covering the sales transaction;

(16) The distiller, wholesaler, winemaker or brewer may sell or give an outside sign to a retail business if the following requirements are met:

- (a) The sign shall bear in a conspicuous manner substantial advertising matter about the product or the name of the distiller, wholesaler, winemaker or brewer;
- (b) The retail business shall not be compensated, directly or indirectly, for displaying the sign; and
- (c) The cost of the sign shall not exceed four hundred dollars;

(17) A wholesaler may, but shall not be required to, exchange for an equal quantity of identical product or allow credit against outstanding indebtedness for intoxicating liquor with alcohol content of less than five percent by weight or nonintoxicating beer that was delivered in a damaged condition or damaged while in the possession of the retailer;

(18) To assure and control product quality, wholesalers at the time of a regular delivery may, but shall not be required to, withdraw, with the permission of the retailer, a quantity of intoxicating liquor with alcohol content of less than five percent by weight or nonintoxicating beer in its undamaged original carton from the retailer's stock, if the wholesaler replaces the product with an equal quantity of identical product;

(19) In addition to withdrawals authorized pursuant to subdivision (18) of this subsection, to assure and control product quality, wholesalers at the time of a regular delivery may, but shall not be required to, withdraw, with the permission of the retailer, a quantity of intoxicating liquor with alcohol content of less than five percent by weight and nonintoxicating beer in its undamaged original carton from the retailer's stock and give the retailer credit against outstanding indebtedness for the product if:

(a) The product is withdrawn at least thirty days after initial delivery and within twenty-one days of the date considered by the manufacturer of the product to be the date the product becomes inappropriate for sale to a consumer; and

(b) The quantity of product withdrawn does not exceed the equivalent of twenty-five cases of twenty-four twelve-ounce containers; and

(c) **To assure and control product quality, a wholesaler may, but not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent by weight or nonintoxicating beer, in a container with a capacity of four gallons or more, delivered but not used, if the wholesaler removes the product within seven days of the initial delivery; and**

(20) Nothing in this section authorizes consignment sales.

5. All contracts entered into between distillers, brewers and winemakers, or their officers or directors, in any way concerning any of their products, obligating such retail dealers to buy or sell only the products of any such distillers, brewers or winemakers or obligating such retail dealers to buy or sell the major part of such products required by such retail vendors from any such distiller, brewer or winemaker, shall be void and unenforceable in any court in this state.

6. Notwithstanding any other provisions of this chapter to the contrary, a distiller or wholesaler may install dispensing accessories at the retail business establishment, which shall include for the purposes of distilled spirits, equipment to properly preserve and serve premixed distilled spirit beverages only. To facilitate delivery to the retailer, the distiller or wholesaler may lend, give, rent or sell and the distiller or wholesaler may install or repair any of the following items or render to retail licensees any of the following services: coils and coil cleaning, draft arms, faucets and tap markers, taps, tap standards, tapping heads, hoses, valves and other minor tapping equipment components, and damage caused by any delivery excluding normal wear and tear. A complete record of equipment furnished and installed and repairs or service made or rendered shall be kept by the distiller or wholesaler, furnishing, making or rendering the same for a period of not less than one year.

7. Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary, distillers, winemakers, brewers or their employees, or officers shall be permitted to make contributions of money or merchandise to a licensed retail liquor dealer that is a charitable or religious organization as defined in section 313.005, RSMo, or an educational institution if such contributions are unrelated to such organization's retail operations.

8. Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary, a brewer or manufacturer, its employees, officers or agents may have a financial interest in the retail business for sale of intoxicating liquors and nonintoxicating beer at entertainment facilities owned, in whole or in part, by the brewer or manufacturer, its subsidiaries or affiliates including, but not limited to, arenas and stadiums used primarily for concerts, shows and sporting events of all kinds.

9. Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary, for the purpose of the promotion of tourism, a wine manufacturer, its employees, officers or agents located within this state may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail for consumption on the premises where sold, if the premises so licensed is in close proximity to the winery. Such premises may remain open between the hours of 6:00 a.m. and midnight, Monday through Saturday and between the hours of 11:00 a.m. and 9:00 p.m., Sunday.

10. Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary, for the purpose of the promotion of tourism, a person may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor by the drink at retail for consumption on the premises where sold, but the person so licensed shall sell only Missouri-produced wines received from manufacturers licensed pursuant to section 311.190. Such premises may remain open between the hours of 6:00 a.m. and midnight,

Monday through Saturday, and between the hours of 11:00 a.m. and 9:00 p.m. on Sundays.

311.178. CONVENTION TRADE AREA, ST. LOUIS COUNTY, LIQUOR SALE BY DRINK, EXTENDED HOURS FOR BUSINESS, REQUIREMENTS, FEE — RESORT DEFINED — SPECIAL PERMIT FOR LIQUOR SALE BY DRINK, MILLER, MORGAN, AND CAMDEN COUNTIES, EXPIRATION DATE. — 1. Any person possessing the qualifications and meeting the requirements of this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on the premises in a [first class] county **of the first classification** having a charter form of government and not containing all or part of a city with a population of over three hundred thousand, may apply to the supervisor of liquor control for a special permit to remain open on each day of the week until 3:00 a.m. of the morning of the following day. The time of opening on Sunday may be 11:00 a.m. The provisions of this section and not those of section 311.097 regarding the time of closing shall apply to the sale of intoxicating liquor by the drink at retail for consumption on the premises on Sunday. The premises of such an applicant [must] **shall** be located in an area which has been designated as a convention trade area by the governing body of the county and the applicant [must] **shall** meet at least one of the following conditions:

(1) The business establishment's annual gross sales for the year immediately preceding the application for extended hours equals one hundred fifty thousand dollars or more; or

(2) The business is a resort. For purposes of this [section] **subsection**, a "resort" is defined as any establishment having at least sixty rooms for the overnight accommodation of transient guests and having a restaurant located on the premises.

2. Any person possessing the qualifications and meeting the requirements of this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on the premises in a county of the third classification without a township form of government having a population of more than twenty-three thousand five hundred but less than twenty-three thousand six hundred inhabitants, a county of the third classification without a township form of government having a population of more than nineteen thousand three hundred but less than nineteen thousand four hundred inhabitants or a county of the first classification without a charter form of government with a population of at least thirty-seven thousand inhabitants but not more than thirty-seven thousand one hundred inhabitants, may apply to the supervisor of liquor control for a special permit to remain open on each day of the week until 3:00 a.m. of the morning of the following day. The time of opening on Sunday may be 11:00 a.m. The provisions of this section and not those of section 311.097 regarding the time of closing shall apply to the sale of intoxicating liquor by the drink at retail for consumption on the premises on Sunday. The applicant shall meet all of the following conditions:

(1) The business establishment's annual gross sales for the year immediately preceding the application for extended hours equals one hundred thousand dollars or more;

(2) The business is a resort. For purposes of this subsection, a "resort" is defined as any establishment having at least seventy-five rooms for the overnight accommodation of transient guests, having at least three thousand square feet of meeting space and having a restaurant located on the premises; and

(3) The applicant shall develop, and if granted a special permit shall implement, a plan ensuring that between the hours of 1:30 a.m. and 3:00 a.m. no sale of intoxicating liquor shall be made except to guests with overnight accommodations at the licensee's resort. The plan shall be subject to approval by the supervisor of liquor control and shall provide a practical method for the division of liquor control and other law enforcement agencies to enforce the provisions of subsection 3 of this section.

3. While open between the hours of 1:30 a.m. and 3:00 a.m. under a special permit issued pursuant to subsection 2 of this section, it shall be unlawful for a licensee or any employee of a licensee to sell intoxicating liquor to or permit the consumption of intoxicating liquor by any person except a guest with overnight accommodations at the licensee's resort.

[2.] 4. An applicant granted a special permit [under] pursuant to this section shall, in addition to all other fees required by this chapter, pay an additional fee of three hundred dollars a year payable at the time and in the same manner as its other license fees.

[3.] 5. The provisions of this section allowing for extended hours of business shall not apply in any incorporated area wholly located in any [first class] county of the first classification having a charter form of government which does not contain all or part of a city with a population of over three hundred thousand inhabitants until the governing body of such incorporated area shall have by ordinance or order adopted the extended hours authorized by this section.

6. The enactment of subsections 2, 3, and 4 of this section shall terminate January 1, 2007.

311.481. SUNDAY LIQUOR SALES FOR AIRLINE CLUBS. — 1. Notwithstanding any other provisions of this chapter to the contrary, any person who possesses the qualifications required by this chapter, and who now or hereafter meets the requirements of and complies with the provisions of this chapter, may apply for, and the supervisor of liquor control may issue, a license to sell intoxicating liquor, as defined in this chapter, by the drink between the hours of 11:00 a.m. on Sunday and midnight on Sunday at retail for consumption on the premises of any airline club as described in the application. As used in this section, the term "airline club" shall mean an establishment located within an international airport and owned, leased, or operated by or on behalf of an airline, as a membership club and special services facility for passengers of such airline.

2. The authority for the collection of fees by cities and counties as provided in section 311.220, and all other laws and regulations of the state relating to the sale of liquor by the drink for consumption on the premises where sold, shall apply to each airline club in the same manner as they apply to establishments licensed pursuant to sections 311.085, 311.090 and 311.095, and in addition to all other fees required by law, a person licensed pursuant to this section shall pay an additional fee of two hundred dollars a year payable at the same time and in the same manner as its other fees; except that the requirements other than fees pertaining to the sale of liquor by the drink on Sunday shall not apply.

311.680. DISORDERLY PLACE, WARNING, PROBATION, SUSPENSION OR REVOCATION OF LICENSE, WHEN, NOTICE — CIVIL PENALTIES — MEET AND CONFER OPPORTUNITY, WHEN. — 1. Whenever it shall be shown, or whenever the supervisor of liquor control has knowledge, that a person licensed hereunder has not at all times kept an orderly place or house, or has violated any of the provisions of this chapter, the supervisor of liquor control may, warn, place on probation on such terms and conditions as the supervisor of liquor control deems appropriate for a period not to exceed twelve months, suspend or revoke the license of that person, but the person shall have ten days' notice of the application to warn, place on probation, suspend or revoke the person's license prior to the order of warning, probation, revocation or suspension issuing.

2. Any wholesaler licensed pursuant to this chapter or chapter 312, RSMo, in lieu of, or in addition to, the warning, probation, suspension or revocation authorized in subsection 1 of this section, may be assessed a civil penalty by the supervisor of liquor control of not less than one hundred dollars or more than twenty-five hundred dollars for each violation.

3. Any solicitor licensed pursuant to this chapter or chapter 312, RSMo, in lieu of the suspension or revocation authorized in subsection 1 of this section, may be assessed a civil penalty or fine by the supervisor of liquor control of not less than one hundred dollars nor more than five thousand dollars for each violation.

4. Any retailer with less than five thousand occupant capacity licensed pursuant to this chapter or chapter 312, RSMo, in lieu of the suspension or revocation authorized by subsection 1 of this section may be assessed a civil penalty or fine by the supervisor of liquor control of not less than fifty dollars nor more than one thousand dollars for each violation.

5. Any retailer with five thousand or more occupant capacity licensed pursuant to this chapter or chapter 312, RSMo, in lieu of the suspension or revocation authorized by subsection 1 of this section, may be assessed a civil penalty or fine by the supervisor of liquor control of not less than fifty dollars nor more than five thousand dollars for each violation.

6. Any aggrieved person may appeal to the administrative hearing commission in accordance with section 311.691.

7. In order to encourage the early resolution of disputes between the supervisor of liquor control and licensees, the supervisor of liquor control, prior to issuing an order of warning, probation, revocation, suspension, or fine, shall provide the licensee with the opportunity to meet or to confer with the supervisor of liquor control, or his or her designee, concerning the alleged violations. At least ten days prior to such meeting or conference, the supervisor shall provide the licensee with notice of the time and place of such meeting or conference, and the supervisor of liquor control shall also provide the licensee with a written description of the specific conduct for which discipline is sought, a citation of the law or rules allegedly violated, and, upon request, copies of any violation report or any other documents which are the basis for such action. Any order of warning, probation, revocation, suspension, or fine shall be effective no sooner than thirty days from the date of such order.

Approved July 11, 2002

SB 840 [HCS SS SCS SB 840]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises the statute of limitations and requires an affidavit be filed in actions against certain professionals.

AN ACT to repeal section 516.097, RSMo, and to enact in lieu thereof one new section relating to statute of repose for certain design professionals.

SECTION

- A. Enacting clause.
516.097. Tort action against architects, engineers or builders of defective improvement to real property must be brought within ten years of completion of improvement, exceptions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 516.097, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 516.097, to read as follows:

516.097. TORT ACTION AGAINST ARCHITECTS, ENGINEERS OR BUILDERS OF DEFECTIVE IMPROVEMENT TO REAL PROPERTY MUST BE BROUGHT WITHIN TEN YEARS OF COMPLETION OF IMPROVEMENT, EXCEPTIONS. — 1. Any action to recover damages for **economic loss**, personal injury, property damage or wrongful death arising out of a defective or unsafe condition of any improvement to real property, including any action for contribution or indemnity for damages sustained on account of the defect or unsafe condition, shall be commenced within ten years of the date on which [any] such improvement is completed.

2. This section shall only apply to actions against any person whose sole connection with the improvement is performing or furnishing, in whole or in part, the design, planning or construction, including architectural, engineering or construction services, of the improvement.

3. If any action is commenced against any person specified by subsection 2[, any] **of this section**, such person may, within one year of the date of the filing of such [an] action, notwithstanding the provisions of subsection 1 **of this section**, commence an action or a third party action for contribution or indemnity for damages sustained or claimed in any action because of **economic loss**, personal injury, property damage or wrongful death arising out of a defective or unsafe condition of any improvement to real property.

4. This section shall not apply [if]:

(1) **If** an action is barred by another provision of law;

(2) **If** a person conceals any defect or deficiency in the design, planning or construction, including architectural, engineering or construction services, in an improvement for real property, if the defect or deficiency so concealed directly results in the defective or unsafe condition for which the action is brought;

(3) [The] **To limit any** action [is] brought against any owner or possessor of real estate or improvements [thereon] **on such real estate**.

5. The statute of limitation for buildings completed on August 13, 1976, shall begin to run on August 13, 1976, and shall be for the time specified [herein] **in this section**.

6. Notwithstanding subsection 1 of section 516.097, if an occupancy permit is issued, the ten year period shall commence on the date the occupancy permit is issued.

Approved July 12, 2002

SB 856 [SB 856]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes new enterprise zones in Wright County and in Carl Junction.

AN ACT to amend chapter 135, RSMo, by adding thereto two new sections relating to enterprise zones.

SECTION

A. Enacting clause.

135.259. Enterprise zone designated for a certain county (Wright County)

135.260. Enterprise zone designated for a certain city (Carl Junction)

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 135, RSMo, is amended by adding thereto two new sections, to be known as sections 135.259 and 135.260, to read as follows:

135.259. ENTERPRISE ZONE DESIGNATED FOR A CERTAIN COUNTY (WRIGHT COUNTY) — In addition to the number of enterprise zones authorized pursuant to the provisions of sections 135.206, 135.210, 135.256 and 135.257, the department of economic development shall designate one such zone for any county of the third classification without a township form of government with a population of less than eighteen thousand and more than seventeen thousand nine hundred. Such enterprise zone designation shall only be made if such area which is to be included in the enterprise zone meets all the requirements of section 135.205.

135.260. ENTERPRISE ZONE DESIGNATED FOR A CERTAIN CITY (CARL JUNCTION) — In addition to the number of enterprise zones authorized pursuant to the provisions of sections 135.206 and 135.210, the department of economic development shall designate one such zone in every city of the fourth classification with greater than five thousand two hundred inhabitants and less than five thousand three hundred inhabitants in every noncharter county of the first classification which contains greater than one hundred four thousand inhabitants and fewer than one hundred five thousand inhabitants. Such enterprise zone shall only be made if such area in the city which is to be included meets all the requirements of section 135.205.

Approved July 11, 2002

SB 859 [SB 859]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Exempts dependents of active military personnel from the residency requirement of the A+ Schools program.

AN ACT to repeal section 160.545, RSMo, relating to the A+ schools program, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

160.545. A+ school program established — purpose — rules — variable fund match requirement — waiver of rules and regulations, requirement — reimbursement for higher education costs for students — evaluation.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 160.545, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.545, to read as follows:

160.545. A+ SCHOOL PROGRAM ESTABLISHED — PURPOSE — RULES — VARIABLE FUND MATCH REQUIREMENT — WAIVER OF RULES AND REGULATIONS, REQUIREMENT — REIMBURSEMENT FOR HIGHER EDUCATION COSTS FOR STUDENTS — EVALUATION. — 1. There is hereby established within the department of elementary and secondary education the "A+ Schools Program" to be administered by the commissioner of education. The program shall consist of grant awards made to public secondary schools that demonstrate a commitment to ensure that:

(1) All students be graduated from school;

(2) All students complete a selection of high school studies that is challenging and for which there are identified learning expectations; and

(3) All students proceed from high school graduation to a college or postsecondary vocational or technical school or high wage job with work place skill development opportunities.

2. The state board of education shall promulgate rules and regulations for the approval of grants made under the program to schools that:

(1) Establish measurable district-wide performance standards for the goals of the program outlined in subsection 1 of this section; and

(2) Specify the knowledge, skills and competencies, in measurable terms, that students must demonstrate to successfully complete any individual course offered by the school, and any course of studies which will qualify a student for graduation from the school; and

(3) Do not offer a general track of courses that, upon completion, can lead to a high school diploma; and

(4) Require rigorous coursework with standards of competency in basic academic subjects for students pursuing vocational and technical education as prescribed by rule and regulation of the state board of education; and

(5) Have a partnership plan developed in cooperation and with the advice of local business persons, labor leaders, parents, and representatives of college and postsecondary vocational and technical school representatives, with the plan then approved by the local board of education. The plan shall specify a mechanism to receive information on an annual basis from those who developed the plan in addition to senior citizens, community leaders, and teachers to update the plan in order to best meet the goals of the program as provided in subsection 1 of this section. Further, the plan shall detail the procedures used in the school to identify students that may drop out of school and the intervention services to be used to meet the needs of such students. The plan shall outline counseling and mentoring services provided to students who will enter the work force upon graduation from high school, address apprenticeship and intern programs, and shall contain procedures for the recruitment of volunteers from the community of the school to serve in schools receiving program grants.

3. By rule and regulation, the state board of education may determine a local school district variable fund match requirement in order for a school or schools in the district to receive a grant under the program. However, no school in any district shall receive a grant under the program unless the district designates a salaried employee to serve as the program coordinator, with the district assuming a minimum of one-half the cost of the salary and other benefits provided to the coordinator. Further, no school in any district shall receive a grant under the program unless the district makes available facilities and services for adult literacy training as specified by rule of the state board of education.

4. For any school that meets the requirements for the approval of the grants authorized by this section and specified in subsection 2 of this section for three successive school years, by August first following the third such school year, the commissioner of education shall present a plan to the superintendent of the school district in which such school is located for the waiver of rules and regulations to promote flexibility in the operations of the school and to enhance and encourage efficiency in the delivery of instructional services in the school. The provisions of other law to the contrary notwithstanding, the plan presented to the superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257 in the school. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a means for the waiver of requirements otherwise imposed on the school related to the authority of the state board of education to classify school districts pursuant to subdivision (9) of section 161.092, RSMo, and such other rules and regulations as determined by the commissioner of education, except such waivers shall be confined to the school and not other schools in the school district unless such other schools meet the requirements of this subsection. However, any waiver provided to any school as outlined in this subsection shall be void on June

thirtieth of any school year in which the school fails to meet the requirements for the approval of the grants authorized by this section as specified in subsection 2 of this section.

5. [Within the amount appropriated for the program, in addition to the grants to public schools authorized by subsections 1 to 3 of this section,] **For any school year, grants authorized by subsections 1 to 3 of this section shall be funded with the amount appropriated for this program, less those funds necessary to reimburse eligible students pursuant to subsection 6 of this section.**

6. The commissioner of education shall, by rule and regulation of the state board of education and with the advice of the coordinating board for higher education, establish a procedure for the reimbursement of the cost of tuition, books and fees to any public community college or vocational or technical school for any student:

(1) Who has attended a public high school in the state for at least three years immediately prior to graduation that meets the requirements of subsection 2 of this section, **except that students who are active duty military dependents who, in the school year immediately preceding graduation, meet all other requirements of this subsection and are attending a school that meets the requirements of subsection 2 of this section shall be exempt from the three-year attendance requirement of this subdivision;** and

(2) Who has made a good faith effort to first secure all available federal sources of funding that could be applied to the reimbursement described in this subsection; and

(3) Who has earned a minimal grade average while in high school as determined by rule of the state board of education, and other requirements for the reimbursement authorized by this subsection as determined by rule and regulation of said board.

[6.] 7. The commissioner of education shall develop a procedure for evaluating the effectiveness of the program described in this section. Such evaluation shall be conducted annually with the results of the evaluation provided to the governor, speaker of the house, and president pro tempore of the senate.

Approved July 1, 2002

SB 865 [SB 865]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the assessment renewal on boll weevil eradication from five years to ten years.

AN ACT to repeal section 263.531, RSMo, relating to boll weevil eradication, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

263.531. Referendum defeated — organization may call other referendums — assessment retention to be subject to vote every ten years.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 263.531, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 263.531, to read as follows:

263.531. REFERENDUM DEFEATED — ORGANIZATION MAY CALL OTHER REFERENDUMS — ASSESSMENT RETENTION TO BE SUBJECT TO VOTE EVERY TEN YEARS. —

1. In the event any referendum conducted under sections 263.500 to 263.537 fails to receive the required number of affirmative votes, the certified organization may, with the consent of the department be authorized to call other referendums.

2. After the passage of any referendum, the eligible voters shall be allowed, by the subsequent referendums, at least every [five] **ten** years, to vote on whether to continue their assessments.

3. All the requirements for an initial referendum shall be met in subsequent referendums.

Approved June 12, 2002

SB 874 [SCS SB 874]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Relating to school district coordination of special education services with public, private, and not-for-profit agencies.

AN ACT to repeal section 162.700, RSMo, relating to special education, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

162.700. Special educational services, required, when — diagnostic reports, how obtained — special services, ages three and four — remedial reading program, how funded.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 162.700, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 162.700, to read as follows:

162.700. SPECIAL EDUCATIONAL SERVICES, REQUIRED, WHEN — DIAGNOSTIC REPORTS, HOW OBTAINED — SPECIAL SERVICES, AGES THREE AND FOUR — REMEDIAL READING PROGRAM, HOW FUNDED. — 1. The board of education of each school district in this state, except school districts which are part of a special school district, and the board of education of each special school district shall provide special educational services for handicapped children three years of age or more residing in the district as required by P.L. 99-457, as codified and as may be amended. Any child, determined to be handicapped, shall be eligible for such services upon reaching his or her third birthday and state school funds shall be apportioned accordingly. This subsection shall apply to each full school year beginning on or after July 1, 1991. In the event that federal funding fails to be appropriated at the authorized level as described in 20 U.S.C. 1419(b)(2), the implementation of this subsection relating to services for handicapped children three and four years of age may be delayed until such time as funds are appropriated to meet such level. Each local school district and each special school district shall be responsible to engage in a planning process to design the service delivery system necessary to provide special education and related services for children three and four years of age with handicaps. The planning process may include public, private and private not-for-profit agencies which have provided such services for this population. The school district, or school districts, or special

school district, shall be responsible for designing an efficient service delivery system which uses the present resources of the local community which may be funded by the department of elementary and secondary education or the department of mental health. School districts may coordinate with public, private and private not-for-profit agencies presently in existence. The service delivery system shall be consistent with the requirements of the department of elementary and secondary education to provide appropriate special education services in the least restrictive environment.

2. Every local school district or, if a special district is in operation, every special school district shall obtain current appropriate diagnostic reports for each handicapped child prior to assignment in a special program. These records may be obtained with parental permission from previous medical or psychological evaluation, may be provided by competent personnel of such district or special district, or may be secured by such district from competent and qualified medical, psychological or other professional personnel.

3. Where special districts have been formed to serve handicapped children under the provisions of sections 162.670 to 162.995, such children shall be educated in programs of the special district, except that component districts may provide education programs for handicapped children ages three and four inclusive in accordance with regulations and standards adopted by the state board of education.

4. For the purposes of this act, remedial reading programs are not a special education service as defined by subdivision (4) of section 162.675 but shall be funded in accordance with the provisions of section 162.975.

5. Any and all state costs required to fund special education services for three- and four-year-old children pursuant to this section shall be provided for by a specific, separate appropriation and shall not be funded by a reallocation of money appropriated for the public school foundation program.

6. **School districts providing early childhood special education shall give preference when developing an individualized education program for a student who had received services pursuant to Part C of the Individuals With Disabilities Education Act, to continue services with the student's Part C provider, unless this would result in a cost which exceeds the average cost per student in early childhood special education for the district responsible for educating the student. Services provided shall be only those permissible according to Section 619 of the Individuals with Disabilities Education Act.**

7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

Approved June 12, 2002

SB 884 [SS SCS SB 884]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Relating to restrictions on payday lenders.

AN ACT to repeal section 408.500, RSMo, and to enact in lieu thereof three new sections relating to restrictions on payday loans, with penalty provisions.

SECTION

- A. Enacting clause.
- 408.500. Unsecured loans under five hundred dollars, licensure of lenders, interest rates and fees allowed — penalties for violations — cost of collection expenses — notice required, form.
- 408.505. Term of loans, charges permitted, repayment, return check charge.
- 408.506. Report to the general assembly, contents.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 408.500, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 408.500, 408.505 and 408.506, to read as follows:

408.500. UNSECURED LOANS UNDER FIVE HUNDRED DOLLARS, LICENSURE OF LENDERS, INTEREST RATES AND FEES ALLOWED — PENALTIES FOR VIOLATIONS — COST OF COLLECTION EXPENSES — NOTICE REQUIRED, FORM. — 1. Lenders, other than banks, trust companies, credit unions, savings banks and savings and loan companies, in the business of making unsecured loans of five hundred dollars or less shall obtain a license from the director of the division of finance. An annual license fee of three hundred dollars per location shall be required. The license year shall commence on January first each year and the license fee may be prorated for expired months. The provisions of this section shall not apply to pawnbroker loans, consumer credit loans as authorized under chapter 367, RSMo, nor to a check accepted and deposited or cashed by the payee business on the same or the following business day. The disclosures required by the federal Truth in Lending Act and regulation Z shall be provided on any loan, renewal or extension made pursuant to this section and the loan, renewal or extension documents shall be signed by the borrower.

2. Entities making loans pursuant to this section shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140. Any contract evidencing any fee or charge of any kind whatsoever, except for bona fide clerical errors, in violation of this section shall be void. Any person, firm or corporation who receives or imposes a fee or charge in violation of this section shall be guilty of a class A misdemeanor.

3. Notwithstanding any other law to the contrary, cost of collection expenses, which include court costs and reasonable attorneys fees, awarded by the court in suit to recover on a bad check or breach of contract shall not be considered as a fee or charge for purposes of this section.

4. Lenders licensed pursuant to this section shall conspicuously post in the lobby of the office, in at least fourteen-point bold type, the maximum annual percentage rates such licensee is currently charging and the statement:

NOTICE:

This lender offers short-term loans. Please read and understand the terms of the loan agreement before signing.

5. The lender shall provide the borrower with a notice in substantially the following form set forth in at least ten-point bold type, and receipt thereof shall be acknowledged by signature of the borrower:

(1) This lender offers short-term loans. Please read and understand the terms of the loan agreement before signing.

(2) You may cancel this loan without costs by returning the full principal balance to the lender by the close of the lender's next full business day.

6. The lender shall renew the loan upon the borrower's written request and the payment of any interest and fees due at the time of such renewal; however, upon the [fifth] **first** renewal of the loan agreement, and each subsequent renewal thereafter, the borrower shall reduce the

principal amount of the loan by [ten] **not less than five** percent of the original amount of the loan until such loan is paid in full. **However, no loan may be renewed more than six times.**

7. When making or negotiating loans, a licensee shall consider the financial ability of the borrower to reasonably repay the loan in the time and manner specified in the loan contract. All records shall be retained at least two years.

8. A licensee who ceases business pursuant to this section must notify the director to request an examination of all records within ten business days prior to cessation. All records must be retained at least two years.

9. Any lender licensed pursuant to this section who fails, refuses or neglects to comply with the provisions of this section, or any laws relating to consumer loans or commits any criminal act may have its license suspended or revoked by the director of finance after a hearing before the director on an order of the director to show cause why such order of suspension or revocation should not be entered specifying the grounds therefor which shall be served on the licensee at least ten days prior to the hearing.

10. Whenever it shall appear to the director that any lender licensed pursuant to this section is failing, refusing or neglecting to make a good faith effort to comply with the provisions of this section, or any laws relating to consumer loans, the director may issue an order to cease and desist which order may be enforceable by a civil penalty of not more than one thousand dollars per day for each day that the neglect, failure or refusal shall continue. The penalty shall be assessed and collected by the director. In determining the amount of the penalty, the director shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

408.505. TERM OF LOANS, CHARGES PERMITTED, REPAYMENT, RETURN CHECK CHARGE.— 1. This section shall apply to:

(1) Unsecured loans made by lenders licensed or who should have been licensed pursuant to section 408.500;

(2) Any person that the Missouri division of finance determines that has entered into a transaction that, in substance, is a disguised loan; and

(3) Any person that the Missouri division of finance determines has engaged in subterfuge for the purpose of avoiding the provisions of this section.

2. All loans made pursuant to this section and section 408.500, shall have a minimum term of fourteen days and a maximum term of thirty-one days, regardless of whether the loan is an original loan or renewed loan.

3. A lender may only charge simple interest and fees in accordance with sections 408.100 and 408.140. No other charges of any nature shall be permitted except as provided by this section, including any charges for cashing the loan proceeds if they are given in check form. However, no borrower shall be required to pay a total amount of accumulated interest and fees in excess of seventy-five percent of the initial loan amount on any single loan authorized pursuant to this section for the entire term of that loan and all renewals authorized by section 408.500 and this section.

4. A loan made pursuant to the provisions of section 408.500 and this section shall be deemed completed and shall not be considered a renewed loan when the lender presents the instrument for payment or the payee redeems the instrument by paying the full amount of the instrument to the lender. Once the payee has completed the loan, the payee may enter into a new loan with a lender.

5. Except as provided in subsection 3 of this section, no loan made pursuant to this section shall be repaid by the proceeds of another loan made by the same lender or any person or entity affiliated with the lender. A lender, person or entity affiliated with the lender, shall not have more than five hundred dollars in loans made pursuant to section 408.500 and this section outstanding to the same borrower at any one time. A lender complies with this subsection if:

(1) The consumer certifies in writing that the consumer does not have any outstanding small loans with the lender which in the aggregate exceeds five hundred dollars, and is not repaying the loan with the proceeds of another loan made by the same lender; and

(2) The lender does not know, or have reason to believe, that the consumer's written certification is false.

6. On a consumer loan transaction where cash is advanced in exchange for a personal check, a return check charge may be charged in the amounts provided by sections 408.653 and 408.654, as applicable.

7. No state or public employee or official, including a judge of any court of this state, shall enforce the provisions of any contract for payment of money subject to this section which violates the provisions of section 408.500 and this section.

8. A person does not commit the crime of passing a bad check pursuant to section 570.120, RSMo, if at the time the payee accepts a check or similar sight order for the payment of money, he or she does so with the understanding that the payee will not present it for payment until later and the payee knows or has reason to believe that there are insufficient funds on deposit with the drawee at the time of acceptance. However, this section shall not apply if the person's account on which the instrument was written was closed by the consumer before the agreed upon date of negotiation or the consumer has stopped payment on the check.

9. A lender shall not use a device or agreement that would have the effect of charging or collecting more fees, charges, or interest than allowed by this section, including, but not limited to:

- (1) Entering into a different type of transaction;
- (2) Entering into a sales lease back arrangement;
- (3) Catalog sales;
- (4) Entering into any other transaction with the consumer that is designed to evade the applicability of this section.

10. The provisions of this section shall only apply to entities subject to the provisions of section 408.500 and this section.

408.506. REPORT TO THE GENERAL ASSEMBLY, CONTENTS. — The division of finance shall report to the general assembly beginning on January 1, 2003, and on the first day of January every other year thereafter, the number of licenses issued by the director pursuant to section 408.500, the number of loans issued by said lenders, the average face value of such loans, the average number of times said loans are renewed, the number of said loans that are defaulted on an annual basis, and the number and nature of complaints made to the director by customers on such licensees and the disposition of such complaints. Such report shall also include the average interest and fees charged and collected by lenders on such loans, and a comparison of such with similar small loan lenders from adjoining states.

Approved June 27, 2002

SB 891 [SB 891]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Corrects a technical error relating to transportation development districts.

AN ACT to repeal section 238.207, RSMo, relating to transportation development districts, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

238.207. Creation of district, procedures — district to be contiguous, size requirements — petition, contents.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 238.207, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 238.207, to read as follows:

238.207. CREATION OF DISTRICT, PROCEDURES — DISTRICT TO BE CONTIGUOUS, SIZE REQUIREMENTS — PETITION, CONTENTS. — 1. Whenever the creation of a district is desired, not less than fifty registered voters from each county partially or totally within the proposed district[, except public streets,] may file a petition requesting the creation of a district. However, if no persons eligible to be registered voters reside within the district, the owners of record of all of the real property, **except public streets**, located within the proposed district may file a petition requesting the creation of a district. The petition shall be filed in the circuit court of any county partially or totally within the proposed district.

2. Alternatively, the governing body of any local transportation authority within any county in which a proposed project may be located may file a petition in the circuit court of that county, requesting the creation of a district.

3. The proposed district area shall be contiguous and may contain all or any portion of one or more municipalities and counties. Property separated only by public streets shall be considered contiguous.

4. The petition shall set forth:

(1) The name, voting residence and county of residence of each individual petitioner, or, if no persons eligible to be registered voters reside within the proposed district, the name and address of each owner of record of real property located within the proposed district, or shall recite that the petitioner is the governing body of a local transportation authority acting in its official capacity;

(2) The name and address of each respondent. Respondents must include the commission and each affected local transportation authority within the proposed district, except a petitioning local transportation authority;

(3) A specific description of the proposed district boundaries including a map illustrating such boundaries;

(4) A general description of each project proposed to be undertaken by that district, including a description of the approximate location of each project;

(5) The name of the proposed district;

(6) The number of members of the board of directors of the proposed district, which shall be not less than five or more than fifteen;

(7) A statement that the terms of office of initial board members shall be staggered in approximately equal numbers to expire in one, two or three years;

(8) If the petition was filed by registered voters or by a governing body, a request that the question be submitted to the qualified voters within the limits of the proposed district whether they will establish a transportation development district to develop a specified project or projects;

(9) A proposal for funding the district initially, pursuant to the authority granted in sections 238.200 to 238.275, together with a request that the funding proposal be submitted to the qualified voters residing within the limits of the proposed district; provided, however, the funding method of special assessments may also be approved as provided in subsection 1 of section 238.230; and

(10) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable.

Approved June 27, 2002

SB 892 [HCS SCS SB 892]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows certain additional services to be pre-purchased from cemeteries.

AN ACT to repeal sections 214.270 and 214.387, RSMo, and to enact in lieu thereof two new sections relating to cemeteries.

SECTION

A. Enacting clause.

214.270. Definitions.

214.387. Monuments, markers or memorial funds to be deposited in segregated account — authorized withdrawals — commingling of funds prohibited — deferment of performance, when — trustee accounts, procedure for withdrawals.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 214.270 and 214.387, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 214.270 and 214.387, to read as follows:

214.270. DEFINITIONS. — As used in sections 214.270 to 214.410, the following terms mean:

(1) "Agent" or "authorized agent", any person empowered by the cemetery operator to represent the operator in dealing with the general public, including owners of the burial space in the cemetery;

(2) "Burial space", one or more than one plot, grave, mausoleum, crypt, lawn, surface lawn crypt, niche or space used or intended for the interment of the human dead;

(3) "Cemetery", property restricted in use for the interment of the human dead by formal dedication or reservation by deed but shall not include any of the foregoing held or operated by the state or federal government or any political subdivision thereof, any incorporated city or town, any county or any religious organization, cemetery association or fraternal society holding the same for sale solely to members and their immediate families;

(4) "Cemetery association", any number of persons who shall have associated themselves by articles of agreement in writing as a not-for-profit association or organization, whether incorporated or unincorporated, formed for the purpose of ownership, preservation, care, maintenance, adornment and administration of a cemetery. Cemetery associations shall be governed by a board of directors. Directors shall serve without compensation;

(5) "Cemetery operator" or "operator", any person who owns, controls, operates or manages a cemetery;

(6) **"Cemetery service", those services performed by a cemetery owner or operator licensed pursuant to this chapter as an endowed care cemetery including setting a monument, setting a tent, excavating a grave, or setting a vault;**

[(6)] (7) "Columbarium", a building or structure for the inurnment of cremated human remains;

[(7)] **(8)** "Community mausoleum", a mausoleum containing a substantial area of enclosed space and having either a heating, ventilating or air conditioning system;

[(8)] **(9)** "Department", department of economic development;

[(9)] **(10)** "Developed acreage", the area which has been platted into grave spaces and has been developed with roads, paths, features, or ornamentations and in which burials can be made;

[(10)] **(11)** "Director", director of the division of professional registration;

[(11)] **(12)** "Division", division of professional registration;

[(12)] **(13)** "Endowed care", the maintenance, repair and care of all burial space subject to the endowment within a cemetery, including any improvements made for the benefit of such burial space. Endowed care shall include the general overhead expenses needed to accomplish such maintenance, repair, care and improvements. Endowed care shall include the terms perpetual care, permanent care, continual care, eternal care, care of duration, or any like term;

[(13)] **(14)** "Endowed care cemetery", a cemetery, or a section of a cemetery, which represents itself as offering endowed care and which complies with the provisions of sections 214.270 to 214.410;

[(14)] **(15)** "Endowed care fund", "endowed care trust", or "trust", any cash or cash equivalent, to include any income therefrom, impressed with a trust by the terms of any gift, grant, contribution, payment, devise or bequest to an endowed care cemetery, or its endowed care trust, or funds to be delivered to an endowed care cemetery's trust received pursuant to a contract and accepted by any endowed care cemetery operator or his agent. This definition includes the terms endowed care funds, maintenance funds, memorial care funds, perpetual care funds, or any like term;

[(15)] **(16)** "Family burial ground", a cemetery in which no burial space is sold to the public and in which interments are restricted to persons related by blood or marriage;

[(16)] **(17)** "Fraternal cemetery", a cemetery owned, operated, controlled or managed by any fraternal organization or auxiliary organizations thereof, in which the sale of burial space is restricted solely to its members and their immediate families;

[(17)] **(18)** "Garden mausoleum", a mausoleum without a substantial area of enclosed space and having its crypt and niche fronts open to the atmosphere. Ventilation of the crypts by forced air or otherwise does not constitute a garden mausoleum as a community mausoleum;

[(18)] **(19)** "Government cemetery", or "municipal cemetery", a cemetery owned, operated, controlled or managed by the federal government, the state or a political subdivision of the state, including a county or municipality or instrumentality thereof;

[(19)] **(20)** "Grave" or "plot", a place of ground in a cemetery, used or intended to be used for burial of human remains;

[(20)] **(21)** "Human remains", the body of a deceased person in any state of decomposition, as well as cremated remains;

[(21)] **(22)** "Inumment", placing an urn containing cremated remains in a burial space;

[(22)] **(23)** "Lawn crypt", a burial vault or other permanent container for a casket which is permanently installed below ground prior to the time of the actual interment. A lawn crypt may permit single or multiple interments in a grave space;

[(23)] **(24)** "Mausoleum", a structure or building for the entombment of human remains in crypts;

[(24)] **(25)** "Niche", a space in a columbarium used or intended to be used for inumment of cremated remains;

[(25)] **(26)** "Nonendowed care cemetery", or "nonendowed cemetery", a cemetery or a section of a cemetery for which no endowed care fund has been established in accordance with sections 214.270 to 214.410;

[(26)] **(27)** "Owner of burial space", a person to whom the cemetery operator or his authorized agent has transferred the right of use of burial space;

[(27)] **(28)** "Person", an individual, corporation, partnership, joint venture, association, trust or any other legal entity;

[(28)] (29) "Registry", the list of cemeteries maintained in the division office for public review. The division may charge a fee for copies of the registry;

[(29)] (30) "Religious cemetery", a cemetery owned, operated, controlled or managed by any church, convention of churches, religious order or affiliated auxiliary thereof in which the sale of burial space is restricted solely to its members and their immediate families;

[(30)] (31) "Surface lawn crypt", a sealed burial chamber whose lid protrudes above the land surface;

[(31)] (32) "Total acreage", the entire tract which is dedicated to or reserved for cemetery purposes;

[(32)] (33) "Trustee of an endowed care fund", the separate legal entity appointed as trustee of an endowed care fund.

214.387. MONUMENTS, MARKERS OR MEMORIAL FUNDS TO BE DEPOSITED IN SEGREGATED ACCOUNT — AUTHORIZED WITHDRAWALS — COMMINGLING OF FUNDS PROHIBITED — DEFERMENT OF PERFORMANCE, WHEN — TRUSTEED ACCOUNTS, PROCEDURE FOR WITHDRAWALS. — 1. Upon written instructions from the purchaser of a monument, marker or memorial, a cemetery may defer delivery of such property to a date designated by the purchaser, provided the cemetery operator, within forty-five days of the date the property is paid in full, deposits from its own funds an amount equal to one hundred ten percent of such property's wholesale cost into a segregated account. Funds deposited in a segregated account pursuant to this section and section 214.385 shall be maintained in such account until delivery of the property is made or the contract for the purchase of such property is canceled. No withdrawals may be made from the cemetery operator's segregated account established pursuant to this section and section 214.385 except as provided herein. The cemetery operator shall not commingle any other of its funds with the deposits made to the segregated account. Money in this account shall be invested utilizing the "prudent man theory" and is subject to audit by the division. Names and addresses of depositories of such money shall be submitted with the annual report.

2. If at the end of a calendar year the market value of the cemetery operator's segregated account exceeds the then current wholesale cost of all paid-in-full property which has not been delivered, the cemetery operator may withdraw from the segregated account all realized income earned by such account. If at the end of a calendar year the market value of the cemetery operator's segregated account is less than the then current wholesale cost of all paid-in-full property which has not been delivered, the cemetery operator shall only withdraw the realized income in excess of (i) the segregated account's market value at year end, plus (ii) all realized income accrued to the segregated account minus (iii) the wholesale cost of all paid-in-full property which has not been delivered.

3. Upon the delivery of a monument, marker or memorial sold by the cemetery or its agent, or the cancellation of the contract for the purchase of such property, the cemetery operator may withdraw from the segregated account an amount equal to (i) the market value of the segregated account based on the most recent account statement issued to the cemetery operator, times (ii) the ratio the delivered property's deposit in the account bears to the aggregate deposit of all property which is paid in full but not delivered. The segregated account may be inspected or audited by the division.

4. Upon written instructions from the purchaser of an interment, entombment, or inurnment cemetery service, a cemetery may defer performance of such service to a date designated by the purchaser, provided the cemetery operator, within forty-five days of the date the agreement is paid in full, deposits from its own funds an amount equal to forty percent of the published retail price into a trusted account. Funds deposited in a trusted account pursuant to this section and section 214.385 shall be maintained in such account until delivery of the service is made or the agreement for the purchase of the service is canceled. No withdrawals may be made from the trusted account established pursuant

to this section and section 214.385 except as provided herein. Money in this account shall be invested utilizing the "prudent man theory" and is subject to audit by the division. Names and addresses of depositories of such money shall be submitted with the annual report.

5. Upon the delivery of the internment, entombment, or inurnment cemetery service agreed upon by the cemetery or its agent, or the cancellation of the agreement for the purchase of such service, the cemetery operator may withdraw from the trusteed account an amount equal to (i) the market value of the trusteed account based on the most recent account statement issued to the cemetery operator, times (ii) the ratio the service's deposit in the account bears to the aggregate deposit of all services which are paid in full but not delivered. The trusteed account may be inspected or audited by the division.

6. The provisions of this section shall apply to all agreements entered into after August 28, 2002.

Approved July 10, 2002

SB 895 [CCS HS HCS SB 895]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Amends various provisions related to financial institutions.

AN ACT to repeal sections 30.260, 139.235, 143.081, 148.020, 148.610, 301.560, 301.600, 301.610, 301.620, 301.630, 301.640, 301.660, 306.400, 306.405, 306.410, 306.420, 306.430, 351.120, 351.140, 351.145, 351.150, 351.155, 355.856, 356.211, 361.700, 362.020, 362.106, 362.117, 362.170, 362.245, 362.270, 362.275, 362.335, 364.120, 365.100, 365.140, 367.518, 385.050, 400.9-102, 400.9-109, 400.9-303, 400.9-317, 400.9-323, 400.9-406, 400.9-407, 400.9-408, 400.9-409, 400.9-504, 400.9-509, 400.9-513, 400.9-525, 400.9-602, 400.9-608, 400.9-611, 400.9-613, 400.9-615, 400.9-625, 400.9-710, 407.432, 408.083, 408.140, 408.170, 408.320, 408.510, 408.556, 408.557, 409.204, 409.402, 417.210, 454.507, 454.516, 525.070, 570.130, 575.060, 700.350, 700.355, 700.360, 700.365, 700.370, and 700.380, RSMo, sections 375.018 and 375.065 as enacted by house committee substitute for senate substitute for senate bill no. 193, ninety-first general assembly, first regular session, section 375.018 as enacted by conference committee substitute for senate committee substitute for house committee substitute for house bill no. 709, eighty-seventh general assembly, first regular session, and section 375.065 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 896, ninetieth general assembly, second regular session, and to enact in lieu thereof eighty-five new sections relating to financial services, with penalty provisions and an effective date for certain sections.

SECTION

- A. Enacting clause.
- 30.260. Investment policy required — time and demand deposits — investments — interest rates.
- 139.235. Passing bad checks in payment of taxes, penalty — cashier's checks, certified checks, or money orders required, when.
- 143.081. Credit for income tax paid to another state.
- 148.020. Definitions.
- 148.610. Definitions.
- 301.560. Application requirements, additional — bonds, fees, signs required — license number, certificate of numbers — duplicate dealer plates, issues, fees — test driving motor vehicles and vessels, use of plates.

- 301.600. Liens and encumbrances, how perfected — effect of on vehicles and trailers brought into state — security procedures for verifying electronic notices.
 - 301.610. Certificate of ownership, delivery to whom, when — electronic certificate of ownership, defined, maintained by director, when.
 - 301.620. Duties of parties upon creation of lien or encumbrance.
 - 301.630. Lien or encumbrance, assignment, procedure, effect of — perfection of assignment, how, fee — form for notice of electronic certificate.
 - 301.640. Release of lienholders' rights upon satisfaction of lien or encumbrance, procedure — issuance of new certificate of ownership — certain liens deemed satisfied, when — penalty.
 - 301.660. Law not to affect existing rights, duties and interests.
 - 306.400. Liens and encumbrances — valid, perfected, when, how, future advances — boats and motors subject to, when, how determined — revenue to establish security procedure, electronic notices, rulemaking authority.
 - 306.405. Certificates of title, delivery of, how, to whom — lienholder may elect to have revenue retain electronic title.
 - 306.410. Duties of parties upon creation of lien or encumbrance — failure of owner to perform certain duties, penalty.
 - 306.420. Satisfaction of lien or encumbrance, release of, procedure — duties of lienholder and director of revenue — penalty for unauthorized release of a lien.
 - 306.430. Liens and encumbrances incurred before July 1, 2003 — how terminated, completed and enforced.
 - 351.120. Annual corporate registration report required, when — change in registered office or agent to be filed with annual report.
 - 351.140. Registration, form — subject to false declaration penalties — notice on form required.
 - 351.145. Notice provided for annual corporate registration report.
 - 351.150. Failure to comply not excused for lack of notice.
 - 351.155. Duplicate forms, when furnished.
 - 355.856. Annual corporate registration report.
 - 356.211. Annual registration report — filed when, contents — form — fee — penalties for failure to file or making false declarations.
 - 361.700. Sale of checks law, how cited — definitions.
 - 362.020. Articles of agreement — contents.
 - 362.106. Additional powers.
 - 362.117. State bank may become trust company — procedure.
 - 362.170. Unimpaired capital, defined — restrictions on loans, and total liability to any one person.
 - 362.245. Board of directors, qualifications — cumulative voting in electing director permitted when.
 - 362.270. Organizational meeting of directors.
 - 362.275. Monthly meeting of board — review of certain transactions — ratification of poll.
 - 362.335. Officers and employees — limitation on powers — appointment of president not required — chief executive officer not required to be member of board, when.
 - 364.120. Interest or discount, amount allowed, computation — prepayment of obligation — refund credit, calculation.
 - 365.100. Late payment charges, interest on delinquent payments, attorney fees — dishonored or insufficient funds fee.
 - 365.140. Prepayment of debt under retail installment contract — refund, how computed.
 - 367.518. Title loan agreements, contents, form.
 - 375.018. Issuance of producer's license, duration — lines of authority — biennial renewal fee for agents, due when — reinstatement of license, when — failure to comply, effect.
 - 375.018. Issuance of producer's license, duration — lines of authority — biennial renewal fee for agents, due when — reinstatement of license, when — failure to comply, effect.
 - 375.065. Credit insurance producer license — organizational credit entity license — application — fee — rules — organization credit agency license issued, procedure, rules — effective date, termination date.
 - 375.065. Credit insurance producer license — organizational credit entity license — application — fee — rules — organization credit agency license issued, procedure, rules — effective date, termination date.
 - 375.919. Use of language other than English permitted, when, disclosures — contractual relationship required for applicability of certain rules — misrepresentation, penalty.
 - 385.050. Revision of premium schedules, procedure for — refunds paid, when — limit on charge for credit life.
 - 400.9-102. Definitions and index of definitions.
 - 400.9-109. Scope.
 - 400.9-303. Law governing perfection and priority of security interests in goods covered by certificate of title.
 - 400.9-317. Interests that take priority over or take free of security interest or agricultural lien.
 - 400.9-323. Future advances.
 - 400.9-406. Discharge of account debtor — notification of assignment — identification and proof of assignment — restrictions on assignment of accounts, chattel paper, payment intangibles and promissory notes ineffective.
 - 400.9-407. Restrictions on creation or enforcement of security interest in leasehold interest or in lessor's residual interest.
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- 400.9-408. Restrictions on assignment of promissory notes, health care insurance receivables, and certain general intangibles ineffective.
- 400.9-409. Restrictions on assignment of letter-of-credit rights ineffective.
- 400.9-504. Indication of collateral.
- 400.9-509. Persons entitled to file a record.
- 400.9-513. Termination statement.
- 400.9-525. Fees.
- 400.9-602. Waiver of variance of rights and duties.
- 400.9-608. Application of proceeds of collection or enforcement — liability for deficiency and right to surplus.
- 400.9-611. Notification before disposition of collateral.
- 400.9-613. Contents and form of notification before disposition of collateral: general.
- 400.9-615. Application of proceeds of disposition — liability for deficiency and right to surplus.
- 400.9-625. Remedies for secured party's failure to comply with article.
- 400.9-710. Local filing office to maintain former article 9 records.
- 407.432. Definitions.
- 407.433. Protection of credit card and debit card account numbers, prohibited actions, penalty, exceptions — effective date, applicability.
- 408.083. Credit contracts, prepayment before maturity, computation of interest.
- 408.140. Additional charges or fees prohibited, exceptions — no finance charges if purchases are paid for within certain time limit, exception.
- 408.170. Contracts paid in full before due date — recomputations of interest — refund defined.
- 408.320. Buyer may pay retail time contract debt before maturity — refund of charges.
- 408.510. Licensure of consumer installment lenders — interest and fees allowed.
- 408.556. Actions arising from default, contents of petition — default judgment requires sworn testimony — recovery of unpaid balances.
- 408.557. Notice required before deficiency action may be commenced.
- 409.204. Denial, revocation, suspension, cancellation and withdrawal of registration.
- 409.402. Exemptions.
- 417.210. Registration, when and how — reregistration.
- 454.507. Financial institutions, division may request information, when, fees — definitions — data match system — notice of lien.
- 454.516. Lien on motor vehicles, boats, motors, manufactured homes and trailers, when, procedure — notice, contents — registration of lien, restrictions, removal of lien — public sale, when — good faith purchasers — child support lien database to be maintained.
- 525.070. Garnishee may discharge himself, how.
- 541.155. Fraudulent use of a credit device, where prosecuted.
- 570.130. Fraudulent use of a credit device or debit device — penalty.
- 575.060. False declarations.
- 700.350. Liens and encumbrances — valid, perfected, when, how — home subject to, when, how determined — security procedures — validity of prior transactions.
- 700.355. Certificates of title, delivery of, how, to whom — election for director to retain possession, procedure.
- 700.360. Creation of lien or encumbrance by owner, duties, failure to perform, penalty — subordinate lienholders, perfection procedure — new certificate issued, when.
- 700.365. Assignment of lien or encumbrance by lienholder, rights and obligations — perfection by assignee, how.
- 700.370. Satisfaction of lien or encumbrance, release of, procedure.
- 700.380. Liens and encumbrances incurred before July 1, 2003 — how terminated, completed and enforced.
 - B. Effective date.
 - C. Effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 30.260, 139.235, 143.081, 148.020, 148.610, 301.560, 301.600, 301.610, 301.620, 301.630, 301.640, 301.660, 306.400, 306.405, 306.410, 306.420, 306.430, 351.120, 351.140, 351.145, 351.150, 351.155, 355.856, 356.211, 361.700, 362.020, 362.106, 362.117, 362.170, 362.245, 362.270, 362.275, 362.335, 364.120, 365.100, 365.140, 367.518, 385.050, 400.9-102, 400.9-109, 400.9-303, 400.9-317, 400.9-323, 400.9-406, 400.9-407, 400.9-408, 400.9-409, 400.9-504, 400.9-509, 400.9-513, 400.9-525, 400.9-602, 400.9-608, 400.9-611, 400.9-613, 400.9-615, 400.9-625, 400.9-710, 407.432, 408.083, 408.140, 408.170, 408.320, 408.510, 408.556, 408.557, 409.204, 409.402, 417.210, 454.507, 454.516, 525.070, 570.130, 575.060, 700.350, 700.355, 700.360, 700.365, 700.370, and 700.380, RSMo, sections 375.018 and 375.065 as enacted by house committee substitute for senate substitute for senate bill no. 193, ninety-first general assembly, first regular session, section 375.018 as enacted

by conference committee substitute for senate committee substitute for house committee substitute for house bill no. 709, eighty-seventh general assembly, first regular session, and section 375.065 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 896, ninetieth general assembly, second regular session, are repealed and eighty-five new sections enacted in lieu thereof, to be known as sections 30.260, 139.235, 143.081, 148.020, 148.610, 301.560, 301.600, 301.610, 301.620, 301.630, 301.640, 301.660, 306.400, 306.405, 306.410, 306.420, 306.430, 351.120, 351.140, 351.145, 351.150, 351.155, 355.856, 356.211, 361.700, 362.020, 362.106, 362.117, 362.170, 362.245, 362.270, 362.275, 362.335, 364.120, 365.100, 365.140, 367.518, 375.018, 375.065, 375.919, 385.050, 400.9-102, 400.9-109, 400.9-303, 400.9-317, 400.9-323, 400.9-406, 400.9-407, 400.9-408, 400.9-409, 400.9-504, 400.9-509, 400.9-513, 400.9-525, 400.9-602, 400.9-608, 400.9-611, 400.9-613, 400.9-615, 400.9-625, 400.9-710, 407.432, 407.433, 408.083, 408.140, 408.170, 408.320, 408.510, 408.556, 408.557, 409.204, 409.402, 417.210, 454.507, 454.516, 525.070, 541.155, 570.130, 575.060, 700.350, 700.355, 700.360, 700.365, 700.370, and 700.380, to read as follows:

30.260. INVESTMENT POLICY REQUIRED — TIME AND DEMAND DEPOSITS — INVESTMENTS—INTEREST RATES. — 1. The state treasurer shall prepare, maintain and adhere to a written investment policy which shall include an asset allocation plan which limits the total amount of state moneys which may be invested in any particular investment authorized by section 15, article IV of the Missouri Constitution. The state treasurer shall present a copy of such policy to the governor, commissioner of administration, state auditor and general assembly at the commencement of each regular session of the general assembly or at any time the written investment policy is amended.

2. The state treasurer shall determine by the exercise of the treasurer's best judgment the amount of state moneys that are not needed for current operating expenses of the state government and shall keep on demand deposit in banking institutions in this state selected by the treasurer and approved by the governor and state auditor the amount of state moneys which the treasurer has so determined are needed for current operating expenses of the state government and disburse the same as authorized by law.

3. Within the parameters of the state treasurer's written investment policy, the state treasurer shall place the state moneys which the treasurer has determined are not needed for current operations of the state government on time deposit drawing interest in banking institutions in this state selected by the treasurer and approved by the governor and the state auditor, or place them outright or, if applicable, by repurchase agreement in obligations described in section 15, article IV, Constitution of Missouri, as the treasurer in the exercise of the treasurer's best judgment determines to be in the best overall interest of the people of the state of Missouri, giving due consideration to:

- (1) The preservation of such state moneys;
- (2) The liquidity needs of the state;
- (3) The comparative yield to be derived therefrom;
- (4) The effect upon the economy and welfare of the people of Missouri of the removal or withholding from banking institutions in the state of all or some such state moneys and investing same in obligations authorized in section 15, article IV of the Missouri Constitution; and
- (5) All other factors which to the treasurer as a prudent state treasurer seem to be relevant to the general public welfare in the light of the circumstances at the time prevailing. The state treasurer may also place state moneys which are determined not needed for current operations of the state government in linked deposits as provided in sections 30.750 to 30.767.

4. Except for state moneys deposited in linked deposits as provided in sections 30.750 to 30.767, the rate of interest payable by all banking institutions on time deposits of state moneys shall be the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming

payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent; except that the rate shall never exceed the maximum rate of interest which by federal law or regulation a bank which is a member of the Federal Reserve System may from time to time pay on a time deposit of the same size and maturity.

5. Within the parameters of the state treasurer's written investment policy, the state treasurer may subscribe for or purchase outright or by repurchase agreement investments of the character described in subsection 3 of this section which the treasurer, in the exercise of the treasurer's best judgment, believes to be the best for investment of state moneys at the time and in payment therefor may withdraw moneys from any bank account, demand or time, maintained by the treasurer without having any supporting warrant of the commissioner of administration. The state treasurer may bid on subscriptions for such obligations in accordance with the treasurer's best judgment. The state treasurer shall provide for the safekeeping of all such obligations so acquired in the same manner that securities pledged to secure the repayment of state moneys deposited in banking institutions are kept by the treasurer pursuant to law. The state treasurer may hold any such obligation so acquired by the treasurer until its maturity or prior thereto may sell the same outright or by reverse repurchase agreement provided the state's security interest in the underlying security is perfected or temporarily exchange such obligation for **cash** or other authorized securities of at least equal market value with no maturity more than one year beyond the maturity of any of the traded obligations, for a negotiated fee as the treasurer, in the exercise of the treasurer's best judgment, deems necessary or advisable for the best interest of the people of the state of Missouri in the light of the circumstances at the time prevailing. The state treasurer may pay all costs and expenses reasonably incurred by the treasurer in connection with the subscription, purchase, sale, collection, safekeeping or delivery of all such obligations at any time acquired by the treasurer.

6. As used in this chapter, except as more particularly specified in section 30.270, obligations of the United States shall include securities of the United States Treasury, and United States agencies or instrumentalities as described in section 15, article IV, Constitution of Missouri. The word "temporarily" as used in this section shall mean no more than six months.

139.235. PASSING BAD CHECKS IN PAYMENT OF TAXES, PENALTY — CASHIER'S CHECKS, CERTIFIED CHECKS, OR MONEY ORDERS REQUIRED, WHEN. — Any person required to pay any tax who issues or passes a check, or other similar sight order, which is returned to the department of revenue, **county collector, or treasurer ex officio collector** because the account upon which the check or order was drawn was closed or did not have sufficient funds at the time of presentation for payment by the department of revenue, **county collector, or treasurer ex officio collector** to meet the face amount of the check or order, may, unless there be good cause shown, be assessed **by the department of revenue**, in addition to any other penalty or interest that may be owed, a penalty of ten dollars or five percent of the total amount of the returned check or order, whichever amount is greater, but in no event shall such penalty imposed exceed one hundred dollars. **Such person may also be assessed by the county collector or treasurer ex officio collector, in addition to any other penalty or interest that may be owed, a penalty not to exceed twenty-five dollars.** The department of revenue, **county collector, or treasurer ex officio collector** may refuse to accept any check or other similar sight order in payment of any tax currently owed plus penalty or interest from a person who previously attempted to pay such amount with a check or order that was returned to the department of revenue, **county collector, or treasurer ex officio collector** unless the remittance is in the form of a cashier's check, certified check, or money order.

143.081. CREDIT FOR INCOME TAX PAID TO ANOTHER STATE. — 1. A resident individual, resident estate, and resident trust shall be allowed a credit against the tax otherwise due [under] **pursuant to** sections 143.005 to 143.998 for the amount of any income tax imposed

[on him] for the taxable year by another state of the United States (or a political subdivision thereof) or the District of Columbia on income derived from sources therein and which is also subject to tax [under] **pursuant to** sections 143.005 to 143.998. Solely for purposes of this subsection, the phrase "income tax imposed" shall include any income tax credit allowed by such other state or the District of Columbia the basis for which is a charitable contribution which qualifies as a charitable deduction from income pursuant to the Internal Revenue Code of 1986, as amended if the other state or the District of Columbia authorizes a reciprocal benefit for residents of this state.

2. The credit provided [under] **pursuant to** this section shall not exceed an amount which bears the same ratio to the tax otherwise due [under] **pursuant to** sections 143.005 to 143.998 as the amount of the taxpayer's Missouri adjusted gross income derived from sources in the other taxing jurisdiction bears to [his] **the taxpayer's** Missouri adjusted gross income derived from all sources. In applying the limitation of the previous sentence to an estate or trust, Missouri taxable income shall be substituted for Missouri adjusted gross income. If the tax of more than one other taxing jurisdiction is imposed on the same item of income, the credit shall not exceed the limitation that would result if the taxes of all the other jurisdictions applicable to the item were deemed to be of a single jurisdiction.

3. For the purposes of this section, in the case of an S corporation, each resident S shareholder shall be considered to have paid a tax imposed on the shareholder in an amount equal to the shareholder's pro rata share of any net income tax paid by the S corporation to a state which does not measure the income of shareholders on an S corporation by reference to the income of the S corporation or where a composite return and composite payments are made in such state on behalf of the S shareholders by the S corporation.

4. For purposes of subsection 3 of this section, in the case of an S corporation that is a bank chartered by a state, the office of thrift supervision, or the comptroller of currency, each Missouri resident S shareholder of such out of state bank shall qualify for the shareholder's pro rata share of any net tax paid, including a bank franchise tax based on the income of the bank, by such S corporation where bank payment of taxes are made in such state on behalf of the S shareholders by the S bank to the extent of the tax paid.

148.020. DEFINITIONS. — For the purposes of this law the following terms shall have the following meanings:

(1) The term "banking institution" means every bank and every trust company organized under any general or special law of this state and every national banking association located in this state and any branch or office physically located in this state of any commercial bank or trust company;

(2) The term "director" means the director of revenue in charge of the state department of revenue;

(3) The term "director of finance" means the chief officer of the present state division of finance, or of such agency of the state of Missouri as may hereafter have by law the supervisory duties of the present state division of finance pertaining to banks and trust companies incorporated under the laws of this state;

(4) The term "income period" means the calendar year or relevant portion thereof next preceding the taxable year;

(5) The term "lease or rental of tangible personal property" means the lease or rental of tangible personal property under the exclusive control of the lessee and neither attached to nor functionally a part of a taxpayer's building or buildings or any part thereof;

(6) The term "taxable year" means the calendar year in which the tax is payable;

[(6)] (7) The term "taxpayer" means any banking institution subject to any tax imposed by this law.

148.610. DEFINITIONS. — For the purposes of sections 148.610 to 148.700, providing for the taxation of credit unions and savings and loan associations, the following terms mean:

(1) "Association", a savings and loan association or building and loan association organized under the laws of this state, any other state, or under the laws of the United States and having an office in this state;

(2) "Credit union", a credit union organized under section 370.010, RSMo, of the laws of this state or the United States and located within this state, the principal business of which, during the taxable year, consisted of receiving the savings of members and making loans to members;

(3) "Director", the director of revenue;

(4) "Income period", the calendar year or relevant portion thereof next preceding the taxable year;

(5) **The term "lease or rental of tangible personal property" means the lease or rental of tangible personal property under the exclusive control of the lessee and neither attached to nor functionally a part of a taxpayer's building or buildings or any part thereof;**

(6) "Taxable in another state", a taxpayer is taxable in another state if, by reason of business activity in another state, it is subject to and did pay one of the types of taxes specified: a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax. The taxpayer must carry on business activities in another state. If the taxpayer voluntarily files and pays one or more of such taxes when not required to do so by the laws of that state or pays a minimal fee for qualification, organization or for the privilege of doing business in that state, but does not actually engage in business activities in that state, and does not have business facilities in that state or does actually engage in some activity, not sufficient for nexus, and the minimum tax bears no relation to the taxpayer's activities with such state, the taxpayer is not taxable in another state;

~~[(6)]~~ (7) "Taxable year", the calendar year in which the tax is payable;

~~[(7)]~~ (8) "Taxpayer", any credit union or savings and loan association subject to any tax imposed by sections 148.600 to 148.710.

301.560. APPLICATION REQUIREMENTS, ADDITIONAL — BONDS, FEES, SIGNS REQUIRED — LICENSE NUMBER, CERTIFICATE OF NUMBERS — DUPLICATE DEALER PLATES, ISSUES, FEES — TEST DRIVING MOTOR VEHICLES AND VESSELS, USE OF PLATES. — 1. In addition to the application forms prescribed by the department, each applicant shall submit the following to the department:

(1) When the application is being made for licensure as a manufacturer, boat manufacturer, motor vehicle dealer, boat dealer, wholesale motor vehicle dealer, wholesale motor vehicle auction or a public motor vehicle auction, a certification by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located; except, that in counties of the first classification, certification may be authorized by an officer of a metropolitan police department when the applicant's established place of business of distributing or selling motor vehicles or trailers is in the metropolitan area where the certifying metropolitan police officer is employed, that the applicant has a bona fide established place of business. A bona fide established place of business for any new motor vehicle franchise dealer or used motor vehicle dealer shall include a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for the selling, bartering, trading or exchanging of motor vehicles or trailers and wherein the public may contact the owner or operator at any reasonable time, and wherein shall be kept and maintained the books, records, files and other matters required and necessary to conduct the business. The applicant's place of business shall contain a working telephone which shall be maintained during the entire registration year. In order to qualify as a bona fide established place of business for all applicants licensed pursuant to this section there shall be an exterior sign displayed carrying the name [and class] of the business [conducted] **set forth** in letters at least six inches in height and clearly visible to the public and there shall be an area or lot which shall not be a public street

on which one or more vehicles may be displayed, except when licensure is for a wholesale motor vehicle dealer, a lot and sign shall not be required. **The sign shall contain the name of the dealership by which it is known to the public through advertising or otherwise, which need not be identical to the name appearing on the dealership's license so long as such name is registered as a fictitious name with the secretary of state, has been approved by its line-make manufacturer in writing in the case of a new motor vehicle franchise dealer and a copy of such fictitious name registration has been provided to the department.** When licensure is for a boat dealer, a lot shall not be required. In the case of new motor vehicle franchise dealers, the bona fide established place of business shall include adequate facilities, tools and personnel necessary to properly service and repair motor vehicles and trailers under their franchisor's warranty;

(2) If the application is for licensure as a manufacturer, boat manufacturer, new motor vehicle franchise dealer, used motor vehicle dealer, wholesale motor vehicle auction, boat dealer or a public motor vehicle auction, a photograph, not to exceed eight inches by ten inches, showing the business building and sign shall accompany the initial application. In the case of a manufacturer, new motor vehicle franchise dealer or used motor vehicle dealer, the photograph shall include the lot of the business. A new motor vehicle franchise dealer applicant who has purchased a currently licensed new motor vehicle franchised dealership shall be allowed to submit a photograph of the existing dealership building, lot and sign but shall be required to submit a new photograph upon the installation of the new dealership sign as required by sections 301.550 to 301.573. Applicants shall not be required to submit a photograph annually unless the business has moved from its previously licensed location, or unless the name of the business or address has changed, or unless the class of business has changed;

(3) If the application is for licensure as a wholesale motor vehicle dealer or as a boat dealer, the application shall contain the business address, not a post office box, and telephone number of the place where the books, records, files and other matters required and necessary to conduct the business are located and where the same may be inspected during normal daytime business hours. Wholesale motor vehicle dealers and boat dealers shall file reports as required of new franchised motor vehicle dealers and used motor vehicle dealers;

(4) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer, a wholesale motor vehicle dealer, or boat dealer shall furnish with the application a corporate surety bond or an irrevocable letter of credit as defined in section 400.5-103, RSMo, issued by any state or federal financial institution in the penal sum of twenty-five thousand dollars on a form approved by the department. The bond or irrevocable letter of credit shall be conditioned upon the dealer complying with the provisions of the statutes applicable to new motor vehicle franchise dealers, used motor vehicle dealers, wholesale motor vehicle dealers and boat dealers, and the bond shall be an indemnity for any loss sustained by reason of the acts of the person bonded when such acts constitute grounds for the suspension or revocation of the dealer's license. The bond shall be executed in the name of the state of Missouri for the benefit of all aggrieved parties or the irrevocable letter of credit shall name the state of Missouri as the beneficiary; except, that the aggregate liability of the surety or financial institution to the aggrieved parties shall, in no event, exceed the amount of the bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter of credit shall be paid upon receipt by the department of a final judgment from a Missouri court of competent jurisdiction against the principal and in favor of an aggrieved party;

(5) Payment of all necessary license fees as established by the department. In establishing the amount of the annual license fees, the department shall, as near as possible, produce sufficient total income to offset operational expenses of the department relating to the administration of sections 301.550 to 301.573. All fees payable pursuant to the provisions of sections 301.550 to 301.573, other than those fees collected for the issuance of dealer plates or certificates of number collected pursuant to subsection 6 of this section, shall be collected by the department for deposit in the state treasury to the credit of the "Motor Vehicle Commission Fund", which is hereby

created. The motor vehicle commission fund shall be administered by the Missouri department of revenue. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in such fund shall not be transferred and placed to the credit of the general revenue fund until the amount in the motor vehicle commission fund at the end of the biennium exceeds two times the amount of the appropriation from such fund for the preceding fiscal year or, if the department requires permit renewal less frequently than yearly, then three times the appropriation from such fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the multiple of the appropriation from such fund for the preceding fiscal year.

2. In the event a new manufacturer, boat manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor vehicle auction or a public motor vehicle auction submits an application for a license for a new business and the applicant has complied with all the provisions of this section, the department shall make a decision to grant or deny the license to the applicant within eight working hours after receipt of the dealer's application, notwithstanding any rule of the department.

3. Upon the initial issuance of a license by the department, the department shall assign a distinctive dealer license number or certificate of number to the applicant and the department shall issue one number plate or certificate bearing the distinctive dealer license number or certificate of number within eight working hours after presentment of the application. Upon the renewal of a boat dealer, boat manufacturer, manufacturer, motor vehicle dealer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction, the department shall issue the distinctive dealer license number or certificate of number as quickly as possible. The issuance of such distinctive dealer license number or certificate of number shall be in lieu of registering each motor vehicle, trailer, vessel or vessel trailer dealt with by a boat dealer, boat manufacturer, manufacturer, public motor vehicle auction, wholesale motor vehicle dealer, wholesale motor vehicle auction or motor vehicle dealer.

4. Notwithstanding any other provision of the law to the contrary, the department shall assign the following distinctive dealer license numbers to:

New motor vehicle franchise dealers	D-0 through D-999
New motor vehicle franchise and commercial motor vehicle dealers	D-1000 through D-1999
Used motor vehicle dealers	D-2000 through D-5399 and D-6000 through D-9999
Wholesale motor vehicle dealers	W-1000 through W-1999
Wholesale motor vehicle auctions	W-2000 through W-2999
Trailer dealers.	T-0 through T-9999
Motor vehicle and trailer manufacturers	M-0 through M-9999
Motorcycle dealers	D-5400 through D-5999
Public motor vehicle auctions	A-1000 through A-1999
Boat dealers and boat manufacturers	B-0 through B-9999

5. Upon the sale of a currently licensed new motor vehicle franchise dealership the department shall, upon request, authorize the new approved dealer applicant to retain the selling dealer's license number and shall cause the new dealer's records to indicate such transfer.

6. In the case of manufacturers and motor vehicle dealers, the department shall also issue one number plate bearing the distinctive dealer license number to the applicant upon payment by the manufacturer or dealer of a fifty-dollar fee. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Boat dealers and boat manufacturers shall be entitled to one certificate of number bearing such number upon the payment of a fifty-dollar fee. As many additional number plates as may be desired by manufacturers and motor vehicle dealers and as many additional certificates of number as may

be desired by boat dealers and boat manufacturers may be obtained upon payment of a fee of ten dollars and fifty cents for each additional plate or certificate. A motor vehicle dealer, boat dealer, manufacturer, boat manufacturer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction obtaining a dealer license plate or certificate of number or additional license plate or additional certificate of number, throughout the calendar year, shall be required to pay a fee for such license plates or certificates of number computed on the basis of one-twelfth of the full fee prescribed for the original and duplicate number plates or certificates of number for such dealers' licenses, multiplied by the number of months remaining in the licensing period for which the dealer or manufacturers shall be required to be licensed. In the event of a renewing dealer, the fee due at the time of renewal shall not be prorated.

7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any motor vehicle owned and held for resale by the motor vehicle dealer or manufacturer, and used by a customer who is test driving the motor vehicle, or is used by an employee or officer, but shall not be displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly used service or wrecker vehicle. Motor vehicle dealers may display their dealer plates on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition.

8. The certificates of number issued pursuant to subsection 3 or 6 of this section may be displayed on any vessel or vessel trailer owned and held for resale by a boat manufacturer or a boat dealer, and used by a customer who is test driving the vessel or vessel trailer, or is used by an employee or officer, but shall not be displayed on any vessel or vessel trailer hired or loaned to others or upon any regularly used service vessel or vessel trailer. Boat dealers and manufacturers may display their certificate of number on a vessel or vessel trailer which is being transported to an exhibit or show.

301.600. LIENS AND ENCUMBRANCES, HOW PERFECTED — EFFECT OF ON VEHICLES AND TRAILERS BROUGHT INTO STATE — SECURITY PROCEDURES FOR VERIFYING ELECTRONIC NOTICES. — 1. Unless excepted by section 301.650, a lien or encumbrance on a motor vehicle or trailer, as defined by section 301.010, is not valid against subsequent transferees or lienholders of the motor vehicle or trailer who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 301.600 to 301.660.

2. Subject to the provisions of section 301.620, a lien or encumbrance on a motor vehicle or trailer is perfected by the delivery to the director of revenue of a notice of a lien in a format as prescribed by the director of revenue. To perfect a subordinate lien, the notice of lien must be accompanied by the documents required to be delivered to the director pursuant to subdivision (3) of section 301.620. The notice of lien is perfected as of the time of its creation if the delivery of such notice to the director of revenue is completed within thirty days thereafter, otherwise as of the time of the delivery. A notice of lien shall contain the name and address of the owner of the motor vehicle or trailer and the secured party, a description of the motor vehicle or trailer, including the vehicle identification number, and such other information as the department of revenue may prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. **Provided the lienholder submits complete and legible documents, the director of revenue shall mail confirmation or electronically confirm receipt of such notice of lien to the lienholder as soon as possible, but no later than fifteen business days after the filing of the notice of lien.**

3. Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the future advance lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" on the notice of lien and noted on the certificate of ownership if the motor vehicle or trailer is subject to only one notice of lien. To secure future advances when an existing lien on a motor vehicle or trailer does not secure future advances, the lienholder shall

file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows: proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted for by the department of revenue, and returned to the lienholder.

4. If a motor vehicle or trailer is subject to a lien or encumbrance when brought into this state, the validity and effect of the lien or encumbrance is determined by the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrance attached that the motor vehicle or trailer would be kept in this state and it was brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state is determined by the law of this state;

(2) If the lien or encumbrance was perfected pursuant to the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state three months after a first certificate of ownership of the motor vehicle or trailer is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period; in that case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected pursuant to the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, it may be perfected in this state; in that case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected pursuant to paragraph (b) of subdivision (2) or subdivision (3) of this subsection either as provided in subsection 2 or 3 of this section or by the lienholder delivering to the director of revenue a notice of lien or encumbrance in the form the director of revenue prescribes and the required fee.

5. By rules and regulations, the director of revenue shall establish a security procedure for the purpose of verifying that an electronic notice of lien or notice of satisfaction of a lien on a motor vehicle or trailer given as permitted in sections 301.600 to 301.640 is that of the lienholder, verifying that an electronic notice of confirmation of ownership and perfection of a lien given as required in section 301.610 is that of the director of revenue, and detecting error in the transmission or the content of any such notice. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself be a security procedure.

301.610. CERTIFICATE OF OWNERSHIP, DELIVERY TO WHOM, WHEN — ELECTRONIC CERTIFICATE OF OWNERSHIP, DEFINED, MAINTAINED BY DIRECTOR, WHEN. — 1. A certificate of ownership of a motor vehicle or trailer when issued by the director of revenue shall be mailed [or confirmation of such ownership shall be electronically transmitted or mailed to the first lienholder named in such certificate; and if no lienholder is shown, then the certificate of ownership shall be mailed] to the owner shown on the face of the title of such motor vehicle or trailer. **If the certificate of ownership is being held electronically by the director of revenue at the election of a lienholder, then confirmation of such ownership shall be electronically transmitted or mailed to the first lienholder named in such certificate.**

2. A lienholder may elect that the director of revenue retain possession of an electronic certificate of ownership, and the director shall issue regulations to cover the procedure by which

such election is made. Each such certificate of ownership shall require a separate election, unless the director provides otherwise by regulation. A subordinate lienholder shall be bound by the election of the superior lienholder with respect to the certificate involved.

3. "Electronic certificate of ownership" means any electronic record of ownership, including a lien or liens that may be recorded.

301.620. DUTIES OF PARTIES UPON CREATION OF LIEN OR ENCUMBRANCE. — If an owner creates a lien or encumbrance on a motor vehicle or trailer:

(1) The owner shall immediately execute the application, in the space provided therefor on the certificate of ownership or on a separate form the director of revenue prescribes, to name the lienholder on the certificate, showing the name and address of the lienholder and the date of the lienholder's security agreement, and cause the certificate, application and the required fee to be delivered to the director of revenue;

(2) The lienholder or an authorized agent licensed pursuant to sections 301.112 to 301.119 shall deliver to the director of revenue a notice of lien as prescribed by the director accompanied by all other necessary documentation to perfect a lien as provided in section 301.600;

(3) [Upon request of the owner or subordinate lienholder, a lienholder in possession of the certificate of ownership shall either mail or deliver the certificate to the subordinate lienholder for delivery to the director of revenue or, upon receipt from the subordinate lienholder of the owner's application, the certificate and the required fee, mail or deliver them to the director of revenue with the certificate. The delivery of the certificate does not affect the rights of the first lienholder under the security agreement] **To perfect a lien for a subordinate lienholder when a transfer of ownership occurs, the subordinate lienholder shall either mail or deliver or cause to be mailed or delivered, a completed notice of lien to the department of revenue, accompanied by authorization from the first lienholder. The owner shall ensure the subordinate lienholder is recorded on the application for title at the time the application is made to the department of revenue. To perfect a lien for a subordinate lienholder when there is no transfer of ownership, the owner or lienholder in possession of the certificate, shall either mail or deliver or cause to be mailed or delivered, the owner's application for title, certificate, notice of lien, authorization from the first lienholder and title fee to the department of revenue. The delivery of the certificate and executing a notice of authorization to add a subordinate lien does not affect the rights of the first lienholder under the security agreement;**

(4) Upon receipt of the [certificate, application and the required fee] **documents and fee required in subdivision (3) of this section**, the director of revenue shall issue a new certificate of ownership containing the name and address of the new lienholder, and shall mail the certificate as prescribed in section 301.610 or if a lienholder who has elected for the director of revenue to retain possession of an electronic certificate of ownership the lienholder shall either mail or deliver to the director a notice of authorization for the director to add a subordinate lienholder to the existing certificate. Upon receipt of such authorization [and], a notice of lien **and required documents and title fee, if applicable**, from a subordinate lienholder, the director shall add the subordinate lienholder to the certificate of ownership being electronically retained by the director and provide confirmation of the addition to both lienholders;

(5) Failure of the owner to name the lienholder in the application for title, as provided in this section is a class A misdemeanor.

301.630. LIEN OR ENCUMBRANCE, ASSIGNMENT, PROCEDURE, EFFECT OF — PERFECTION OF ASSIGNMENT, HOW, FEE — FORM FOR NOTICE OF ELECTRONIC CERTIFICATE. — 1. A lienholder may assign, absolutely or otherwise, his or her lien or encumbrance in the motor vehicle or trailer to a person other than the owner without affecting the interest of the owner or the validity or effect of the lien or encumbrance, but any person without notice of the assignment is protected in dealing with the lienholder as the holder of the

lien or encumbrance and the lienholder remains liable for any obligations as lienholder until the assignee is named as lienholder on the certificate.

2. The assignee may, but need not [to] perfect the assignment, have the certificate of ownership endorsed or issued with the assignee named as lienholder, upon delivering to the director of revenue the certificate and an assignment by the lienholder named in the certificate in the form the director of revenue prescribes the application and the required fee.

3. If the certificate of ownership is being electronically retained by the director of revenue, the original lienholder may mail or deliver a notice of assignment of a lien to the director in a form prescribed by the director. Upon receipt of notice of assignment the director shall update the electronic certificate of ownership to reflect the assignment of the lien and lienholder.

301.640. RELEASE OF LIENHOLDERS' RIGHTS UPON SATISFACTION OF LIEN OR ENCUMBRANCE, PROCEDURE — ISSUANCE OF NEW CERTIFICATE OF OWNERSHIP — CERTAIN LIENS DEEMED SATISFIED, WHEN — PENALTY. — 1. Upon the satisfaction of any lien or encumbrance of a motor vehicle or trailer [for which the certificate of ownership is in possession of the lienholder], the lienholder shall, within ten business days release the lien or encumbrance on the certificate **or a separate document**, and mail or deliver the certificate [to the next lienholder named therein, or, if none,] **or a separate document** to the owner or any person who delivers to the lienholder an authorization from the owner to receive the certificate **or such documentation. The release on the certificate or separate document shall be notarized. Each perfected subordinate lienholder if any, shall release such lien or encumbrance as provided in this section for the first lienholder.** The owner may cause the certificate to be mailed or delivered to the director of revenue, who shall issue a new certificate of ownership upon application and payment of the required fee. A lien or encumbrance shall be satisfied for the purposes of this section when a lienholder receives payment in full in the form of certified funds, as defined in section 381.410, RSMo.

2. If the electronic certificate of ownership is in the possession of the director of revenue, the lienholder shall notify the director within ten business days of any release of a lien and provide the director with the most current address of the owner. The director shall note such release on the electronic certificate and if no other lien exists the director shall mail or deliver the certificate free of any lien to the owner.

3. [Upon the satisfaction of any lien or encumbrance in a motor vehicle or trailer for which a certificate is in possession of a prior lienholder, the lienholder whose lien or encumbrance is satisfied shall within ten business days release the lien or encumbrance on the certificate and deliver the certificate to the owner or any person who delivers to the lienholder an authorization from the owner to receive it. The lienholder in possession of the certificate shall at the request of the owner and upon surrender of the certificate of title by the owner and receipt of the required fee, either mail or deliver the certificate of ownership to the director of revenue, or deliver the certificate to the owner, or the person authorized by the owner, for delivery to the director of revenue, who shall issue a new certificate.

4.] If the purchase price of a motor vehicle or trailer did not exceed six thousand dollars at the time of purchase, a lien or encumbrance which was not perfected by a motor vehicle financing corporation whose net worth exceeds one hundred million dollars, or a depository institution, shall be considered satisfied within six years from the date the lien or encumbrance was originally perfected unless a new lien or encumbrance has been perfected as provided in section 301.600. This subsection does not apply to motor vehicles or trailers for which the certificate of ownership has recorded in the second lienholder portion the words "subject to future advances".

[5.] 4. Any lienholder who fails to comply with subsection 1[.] **or 2** [or 3] of this section shall pay to the person or persons satisfying the lien or encumbrance twenty-five dollars for the first ten business days after expiration of the time period prescribed in subsection 1[.] **or 2** [or

3] of this section, and such payment shall double for each ten days thereafter in which there is continued noncompliance, up to a maximum of five hundred dollars for each lien. If delivery of the certificate **or other lien release** is made by mail, the delivery date is the date of the postmark for purposes of this subsection.

5. Any person who knowingly and intentionally sends in a separate document releasing a lien of another without authority to do so shall be guilty of a class C felony.

301.660. LAW NOT TO AFFECT EXISTING RIGHTS, DUTIES AND INTERESTS. — All transactions involving liens or encumbrances on motor vehicles or trailers entered into before July 1, [1991] **2003**, and the rights, duties and interests flowing from them remain valid thereafter and may be terminated, completed, consummated or enforced as required or permitted by any statute or other law amended or repealed by sections 301.600 to 301.660 as though the repeal or amendment had not occurred.

306.400. LIENS AND ENCUMBRANCES — VALID, PERFECTED, WHEN, HOW, FUTURE ADVANCES — BOATS AND MOTORS SUBJECT TO, WHEN, HOW DETERMINED — REVENUE TO ESTABLISH SECURITY PROCEDURE, ELECTRONIC NOTICES, RULEMAKING AUTHORITY. — 1. As used in sections 306.400 to 306.440, the terms "motorboat", "vessel", and "watercraft" shall have the same meanings given them in section 306.010, and the term "outboard motor" shall include outboard motors governed by section 306.530.

2. Unless excepted by section 306.425, a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft shall not be valid against subsequent transferees or lienholders of the outboard motor, motorboat, vessel or watercraft, who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 306.400 to 306.430.

3. A lien or encumbrance on an outboard motor, motorboat, vessel or watercraft is perfected by the delivery to the director of revenue of a notice of lien in a format as prescribed by the director. Such lien or encumbrance shall be perfected as of the time of its creation if the delivery of the items required in this subsection to the director of revenue is completed within thirty days thereafter, otherwise such lien or encumbrance shall be perfected as of the time of the delivery. A notice of lien shall contain the name and address of the owner of the outboard motor, motorboat, vessel or watercraft and the secured party, a description of the outboard motor, motorboat, vessel or watercraft motor, including any identification number, and such other information as the department of revenue may prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. **Provided the lienholder submits complete and legible documents, the director of revenue shall mail confirmation or electronically confirm receipt of each notice of lien to the lienholder as soon as possible, but no later than fifteen business days after the filing of the notice of lien.**

4. Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the future advance lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" in the second lienholder's portion of the notice of lien. To secure future advances when an existing lien on an outboard motor, motorboat, vessel or watercraft does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows. Proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted for by the department of revenue, and returned to the lienholder.

5. Whether an outboard motor, motorboat, vessel, or watercraft is subject to a lien or encumbrance shall be determined by the laws of the jurisdiction where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrances attached that the outboard motor, motorboat, vessel, or watercraft would be kept in this state and it is brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state shall be determined by the laws of this state;

(2) If the lien or encumbrance was perfected pursuant to the laws of the jurisdiction where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, his or her lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by the jurisdiction, the lien or encumbrance continues perfected in this state for three months after the first certificate of title of the outboard motor, motorboat, vessel, or watercraft is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period, in which case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected pursuant to the laws of the jurisdiction where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance attached, it may be perfected in this state, in which case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected pursuant to paragraph (b) of subdivision (2) or subdivision (3) of this subsection in the same manner as provided in subsection 3 of this section.

6. The director of revenue shall by rules and regulations establish a security procedure to verify that an electronic notice or lien or notice of satisfaction of a lien on an outboard motor, motorboat, vessel or watercraft given pursuant to sections 306.400 to 306.440 is that of the lienholder, to verify that an electronic notice of confirmation of ownership and perfection of a lien given pursuant to section 306.410 is that of the director of revenue and to detect error in the transmission or the content of any such notice. Such a security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself constitute a security procedure.

306.405. CERTIFICATES OF TITLE, DELIVERY OF, HOW, TO WHOM — LIENHOLDER MAY ELECT TO HAVE REVENUE RETAIN ELECTRONIC TITLE. — 1. All certificates of title of an outboard motor, motorboat, vessel, or watercraft issued by the director of revenue shall be mailed [or confirmation of such ownership shall be electronically transmitted or mailed to the first lienholder named in such certificate or, if no lienholder is named,] to the owner named therein. If the certificate of ownership is being held electronically by the director of revenue at the election of a lienholder, then confirmation of such ownership shall be electronically transmitted or mailed to the first lienholder named in such certificate.

2. A lienholder may elect to have the director of revenue retain possession of an electronic certificate of title and the director shall issue regulations to govern the procedure for making such an election. Each such certificate of title shall require a separate election unless the director provides otherwise by regulation. A subordinate lienholder shall be bound by the election of the superior lienholder with respect to the certificate involved.

3. "Electronic certificate of title" means any electronic record of ownership, including liens that may be recorded.

306.410. DUTIES OF PARTIES UPON CREATION OF LIEN OR ENCUMBRANCE — FAILURE OF OWNER TO PERFORM CERTAIN DUTIES, PENALTY. — If an owner creates a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft:

(1) The owner shall immediately execute the application, either in the space provided therefor on the certificate of title or on a separate form the director of revenue prescribes, to name the lienholder on the certificate of title, showing the name and address of the lienholder and the date of his or her security agreement, and shall cause the certificate of title, the application and the required fee to be mailed or delivered to the director of revenue. Failure of the owner to do so is a class A misdemeanor;

(2) The lienholder or an authorized agent licensed pursuant to sections 301.112 to 301.119, RSMo, shall deliver to the director of revenue a notice of lien as prescribed by the director accompanied by all other necessary documentation to perfect a lien pursuant to section 306.400;

(3) [Upon request of the owner or subordinate lienholder, a lienholder in possession of the certificate of title who receives the owner's application and required fee shall mail or deliver the certificate of title, application, and fee to the director of revenue, unless such certificate of title secures future advance liens. The delivery of the certificate of title to the director of revenue shall not affect the rights of the first lienholder under his or her security agreement] **To perfect a lien for a subordinate lienholder when a transfer of ownership occurs, the subordinate lienholder shall either mail or deliver or cause to be mailed or delivered, a completed notice of lien to the department or revenue, accompanied by authorization from the first lienholder. The owner shall ensure the subordinate lienholder is recorded on the application for title at the time the application is made to the department of revenue. To perfect a lien for a subordinate lienholder when there is no transfer of ownership, the owner or lienholder in possession of the certificate, shall either mail or deliver or cause to be mailed or delivered, the owner's application for title, certificate, notice of lien, authorization from the first lienholder and title fee to the department of revenue. The delivery of the certificate and executing a notice of authorization to add a subordinate lien does not affect the rights of the first lienholder under the security agreement;**

(4) Upon receipt of the [certificate of title, application and the required fee] **documents and fee required in subdivision (3) of this section**, the director of revenue shall issue a new certificate of title containing the name and address of the new lienholder, and mail the certificate of title to the first lienholder named in it or if a lienholder has elected to have the director of revenue retain possession of an electronic certificate of title, the lienholder shall either mail or deliver to the director a notice of authorization for the director to add a subordinate lienholder to the existing certificate **as prescribed in section 306.405**. Upon receipt of such authorization and a notice of lien from a subordinate lienholder, the director shall add the subordinate lienholder to the certificate of title being electronically retained by the director and provide confirmation of the addition to both lienholders.

306.420. SATISFACTION OF LIEN OR ENCUMBRANCE, RELEASE OF, PROCEDURE — DUTIES OF LIENHOLDER AND DIRECTOR OF REVENUE — PENALTY FOR UNAUTHORIZED RELEASE OF A LIEN. — 1. Upon the satisfaction of a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft [for which the certificate of title is in the possession of the lienholder and provided the owner waives any rights to future advances subject to a lien in this chapter], the lienholder shall, within ten days [after demand and, in any event, within thirty days,] execute a release of his or her lien or encumbrance, **on the certificate or separate document**, and mail or deliver the certificate [and release to the next lienholder named therein, or, if no other lienholder is so named,] **or separate document** to the owner or any person who delivers to the lienholder an authorization from the owner to receive the [certificate.] **documentation. The release on the certificate or separate document shall be notarized. Each perfected subordinate lienholder, if any, shall release such lien or encumbrance as provided in this**

section for the first lienholder. The owner may cause the certificate of title, the release, and the required fee to be mailed or delivered to the director of revenue, who shall release the lienholder's rights on the certificate and issue a new certificate of title.

2. [Upon the satisfaction of a second or third lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft for which the certificate of title is in the possession of the first lienholder, the lienholder whose lien or encumbrance is satisfied shall, within ten days after demand, and, in any event, within thirty days, execute a release and deliver the release to the owner or any person who delivers to the lienholder an authorization from the owner to receive it. The lienholder in possession of the certificate of title shall, at the request of the owner and upon receipt of the release and the required fee, either mail or deliver the certificate, the release, and the required fee to the director of revenue, or deliver the certificate of title to the owner, or the person authorized by him or her, for delivery of the certificate, the release and required fee to the director of revenue, who shall release the subordinate lienholder's rights on the certificate of title and issue a new certificate of title.

3.] If the electronic certificate of title is in the possession of the director of revenue, the lienholder shall notify the director within ten business days of any release of lien and provide the director with the most current address of the owner. The director shall note such release on the electronic certificate and if no other lien exists, the director shall mail or deliver the certificate free of any lien to the owner.

3. Any person who knowingly and intentionally sends in a separate document releasing a lien of another without authority to do so shall be guilty of a class C felony.

306.430. LIENS AND ENCUMBRANCES INCURRED BEFORE JULY 1, 2003 — HOW TERMINATED, COMPLETED AND ENFORCED. — All transactions involving liens or encumbrances on outboard motors, motorboats, vessels, or watercraft entered into before [April 1, 1986] **July 1, 2003**, and the rights, duties, and interests flowing from such transactions shall remain valid after [April 1, 1986] **July 1, 2003**, and may be terminated, completed, consummated, or enforced as required or permitted by any statute or other law amended or repealed by sections 306.400 to 306.430 as though such repeal or amendment had not occurred.

351.120. ANNUAL CORPORATE REGISTRATION REPORT REQUIRED, WHEN — CHANGE IN REGISTERED OFFICE OR AGENT TO BE FILED WITH ANNUAL REPORT. — **1.** Every corporation organized pursuant to the laws of this state, including corporations organized pursuant to or subject to this chapter, and every foreign corporation licensed to do business in this state, whether such license shall have been issued pursuant to this chapter or not, other than corporations exempted from taxation by the laws of this state, shall file an annual corporation registration report [stating its].

2. The annual corporate registration report shall state the corporate name, the name of its registered agent and such agent's Missouri address, giving street and number, or building and number, or both, as the case may require, the name and correct business or residence address of its officers and directors, and the mailing address of the corporation's principal place of business or corporate headquarters.

3. The annual [corporation] **corporate** registration report shall be due on the date that the corporation's franchise tax report is due as required in section 147.020, RSMo, or within thirty days of the date of incorporation of the corporation[; but]. Any extension of time for filing the franchise tax report shall not apply to the due date of the annual corporation registration report. Any corporation that is not required to file a franchise tax report shall still be required to file an annual corporation registration report.

4. In the event of any change in the names and addresses of the officers and directors set forth in an annual registration report following the required date of its filing and the date of the

next such required report, the corporation may correct such information by filing a certificate of correction pursuant to section 351.049.

5. A corporation may change the corporation's registered office or registered agent with the filing of the corporation's annual registration report. To change the corporation's registered agent with the filing of the annual registration report, the corporation must include the new registered agent's written consent to the appointment as registered agent and a written consent stating that such change in registered agents was authorized by resolution duly adopted by the board of directors. The written consent must be signed by the new registered agent and must include such agent's address. If the annual corporate registration report is not completed correctly, the secretary of state may reject the filing of such report.

6. A corporation's annual registration report must be filed in a format as prescribed by the secretary of state.

351.140. REGISTRATION, FORM — SUBJECT TO FALSE DECLARATION PENALTIES — NOTICE ON FORM REQUIRED. — Each registration required by section 351.120 shall be on a form to be supplied by the secretary of state and shall be [signed] **executed** subject to the penalties of making a false declaration under section 575.060, RSMo, by the president, a vice president, the secretary, an assistant secretary, the treasurer or an assistant treasurer of the corporation. Whenever any corporation is in the hands of an assignee or receiver, it shall be the duty of such assignee or receiver, or one of them, if there be more than one, to register such corporation and otherwise comply with the requirements of this chapter. The forms shall bear a notice stating that false statements made therein are punishable under section 575.060, RSMo.

351.145. NOTICE PROVIDED FOR ANNUAL CORPORATE REGISTRATION REPORT. — It shall be the duty of the secretary of state to [provide blank corporate registration forms] **send notice that the annual corporate registration report is due** to each corporation in this state required to register[, addressed]. **The notice shall be directed** to its registered office as disclosed originally by its articles of incorporation or by its application for a certificate of authority to transact business in this state and thereafter as disclosed by its registration for the year preceding, as provided by law[, or addressed to the president or a vice president at the principal place of business or corporate headquarters of the corporation as the same appears in the records of the secretary of state]. **The secretary of state may provide a form of the annual corporate registration report for filing in a format and medium prescribed by the secretary of state.**

351.150. FAILURE TO COMPLY NOT EXCUSED FOR LACK OF NOTICE. — No corporation shall be excused for its failure to comply with the provisions of this chapter by reason of failure to receive the [blanks] **notice** in section 351.145 required to be [mailed] **given** by the secretary of state.

351.155. DUPLICATE FORMS, WHEN FURNISHED. — It shall be the duty of the secretary of state to furnish [duplicate blanks] **forms of annual corporate registration reports** to any corporation upon request [of its president, or secretary] **to any representative of the corporation**, but no such [duplicate blanks] **form of the annual corporate registration report** shall be furnished unless the name of the corporation for which they are desired shall accompany the request.

355.856. ANNUAL CORPORATE REGISTRATION REPORT. — 1. Each domestic corporation, and each foreign corporation authorized **pursuant to this chapter** to transact business in this state, shall [deliver to] **file with** the secretary of state an annual **corporate registration** report on a form prescribed and furnished by the secretary of state that sets forth:

- (1) The name of the corporation and the state or country under whose law it is incorporated;

(2) The address of its registered office and the name of its registered agent at the office in this state;

(3) The address of its principal office;

(4) The names and business or residence addresses of its directors and principal officers;

(5) A brief description of the nature of its activities;

(6) Whether or not it has members;

(7) If it is a domestic corporation, whether it is a public benefit or mutual benefit corporation; and

(8) If it is a foreign corporation, whether it would be a public benefit or mutual benefit corporation had it been incorporated in this state.

2. The information in the annual **corporate registration** report must be current on the date the annual **corporate registration** report is executed on behalf of the corporation.

3. The first annual **corporate registration** report must be delivered to the secretary of state no later than August thirty-first of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent annual **corporate registration** reports must be delivered to the secretary of state no later than August thirty-first of the following calendar years. If an annual **corporate registration** report is not filed within the time limits prescribed by this section, the secretary of state shall not accept the report unless it is accompanied by a fifteen-dollar fee. **Failure to file the annual registration report as required by this section will result in the administrative dissolution of the corporation as set forth in section 355.706.**

4. If an annual **corporate registration** report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the secretary of state within thirty days after the effective date of notice, it is deemed to be timely filed.

5. **A corporation may change the corporation's registered office or registered agent with the filing of the corporation's annual registration report. To change the corporation's registered agent with the filing of the annual registration report, the corporation must include the new registered agent's written consent to the appointment as registered agent and a written consent stating that such change in registered agents was authorized by resolution duly adopted by the board of directors. The written consent must be signed by the new registered agent and must include such agent's address. If the annual corporate registration report is not completed correctly, the secretary of state may reject the filing of such report.**

6. **A corporation's annual registration report must be filed in a format and medium prescribed by the secretary of state.**

356.211. ANNUAL REGISTRATION REPORT — FILED WHEN, CONTENTS — FORM — FEE — PENALTIES FOR FAILURE TO FILE OR MAKING FALSE DECLARATIONS. — 1. Each professional corporation and each foreign professional corporation shall file[, in duplicate,] with the secretary of state an annual corporation registration report [simultaneously with] **at the time the corporation's franchise tax report [setting] is due. Any extension of time for filing the franchise tax report shall not apply to the due date of the annual corporation registration report. Any corporation that is not required to file a franchise tax report shall still be required to file an annual corporation registration report. The corporate registration report shall set forth the following information:**

(1) The names and residence addresses of all officers, directors and shareholders of that professional corporation as of the date of the report;

(2) A statement that each officer, director and shareholder is or is not a qualified person as defined in sections 356.011 to 356.261, and setting forth the date on which any shares of the

professional corporation were no longer owned by a qualified person, and any subsequent disposition thereof;

(3) A statement as to whether or not suit has been instituted to fix the fair value of any shares not owned by a qualified person, and if so, the date on which and the court in which the same was filed.

2. The report shall be made on a form to be prescribed and furnished by the secretary of state, and shall be [signed] **executed** by the president or vice president, subject to the penalties of making a false declaration under section 575.060, RSMo. The form shall bear a notice stating that false statements made therein are punishable under section 575.060, RSMo. A reasonable filing fee to be set by the secretary of state shall be paid with the filing of each report, and no other fees shall be charged therefor; except that, penalty and interest fees may be imposed by the secretary of state for late filings. The report shall be filed subject to the time requirements of section 351.120, RSMo. [The duplicate original copy of the annual report shall be forwarded to each licensing authority that regulates the professional services for which the corporation is organized to practice.]

3. If a professional corporation or foreign professional corporation shall fail to file a report qualifying with the provisions of this section when such a filing is due, then the corporation shall be subject to the provisions of chapter 351, RSMo, that are applicable to a corporation that has failed to timely file the annual report required to be filed under chapter 351, RSMo.

361.700. SALE OF CHECKS LAW, HOW CITED — DEFINITIONS. — 1. Sections 361.700 to 361.727 shall be known and may be cited as the "Sale of Checks Law".

2. For the purposes of sections 361.700 to 361.727, the following terms mean:

(1) "Check", any instrument for the transmission or payment of money **and shall also include any electronic means of transmitting or paying money;**

(2) "Director", the director of the division of finance;

(3) "Licensee", any person duly licensed by the director pursuant to sections 361.700 to 361.727;

(4) "Person", any individual, partnership, association, trust or corporation.

362.020. ARTICLES OF AGREEMENT — CONTENTS. — 1. The articles of agreement mentioned in this chapter shall set out:

(1) The corporate name of the proposed corporation. The corporate name shall not be a name, or an imitation of a name, used within the preceding fifty years as a corporate title of a bank or trust company incorporated in this state;

(2) The name of the city or town and county in this state in which the corporation is to be located;

(3) The amount of the capital stock of the corporation, the number of shares into which it is divided, and the par value thereof; that the same has been subscribed in good faith and all thereof actually paid up in lawful money of the United States and is in the custody of the persons named as the first board of directors or managers;

(4) The names and places of residences of the several shareholders and number of shares subscribed by each;

(5) The number and the names of the first directors;

(6) The purposes for which the corporation is formed;

(7) Any provisions relating to the preemptive rights of a shareholder as provided in section 351.305, RSMo.

2. The articles of agreement may designate the number of directors necessary to constitute a quorum, and may provide for the number of years the corporation is to continue, or may provide that the existence of the corporation shall continue until the corporation shall be dissolved by consent of the stockholders or by proceedings instituted by the state under any statute now in force or hereafter enacted.

362.106. ADDITIONAL POWERS. — In addition to the powers authorized by section 362.105:

(1) A bank or trust company may exercise all powers necessary, proper or convenient to effect any of the purposes for which the bank or trust company has been formed and any powers incidental to the business of banking;

(2) A bank or trust company may offer any direct and indirect benefits to a bank customer for the purpose of attracting deposits or making loans, provided said benefit is not otherwise prohibited by law, and the income or expense of such activity is nominal;

(3) Notwithstanding any other law to the contrary, every bank or trust company created under the laws of this state may, for a fee or other consideration, directly or through a subsidiary company, and upon complying with any applicable licensing statute, acquire and hold the voting stock of one or more corporations the activities of which are managing or owning agricultural property, **owning and leasing governmental structures except as limited by other law**, subdividing and developing real property and building residential housing or commercial improvements on such property, and owning, renting, leasing, managing, operating for income and selling such property; provided that, the total of all investments, loans and guarantees made pursuant to the authority of this subdivision shall not exceed five percent of the total assets of the bank or trust company as shown on the next preceding published report of such bank or trust company to the director of finance, unless the director of the division of finance approves a higher percentage by regulation, but in no event shall such percentage exceed that allowed national banks by the appropriate regulatory authority, and, in addition to the investments permitted by this subdivision, a bank or trust company may extend credit, not to exceed the lending limits of section 362.170, to each of the corporations in which it has invested. No provision of this section authorizes a bank or trust company to own or operate, directly or through a subsidiary company, a real estate brokerage company;

(4) Notwithstanding any other law to the contrary except for bank regulatory powers in chapter 361, RSMo, powers incidental to the business of banking shall include the authority of every Missouri bank, for a fee or other consideration, and upon complying with any applicable licensing and registration law, to conduct any activity that national banks are expressly authorized by federal law to conduct, if such Missouri bank meets the prescribed standards, provided that powers conferred by this subdivision:

(a) Shall always be subject to the same limitations applicable to a national bank for conducting the activity;

(b) Shall be subject to applicable Missouri insurance law;

(c) Shall be subject to applicable Missouri licensing and registration law for the activity;

(d) Shall be subject to the same treatment prescribed by federal law; and any enabling federal law declared invalid by a court of competent jurisdiction or by the responsible federal chartering agency shall be invalid for the purposes of this subdivision; and

(e) May be exercised by a Missouri bank after that institution has notified the director of its intention to exercise such specific power at the close of the notice period and the director, in response, has made a determination that the proposed activity is not an unsafe or unsound practice and such institution meets the prescribed standards required for the activity permitted national banks in the interpretive letter. The director may either take no action or issue an interpretive letter to the institution more specifically describing the activity permitted, and any limitations on such activity. The notice provided by the institution requesting such activity shall include copies of the specific law authorizing the power for national banks, and documentation indicating that such institution meets the prescribed standards. The notice period shall be thirty days but the director may extend it for an additional sixty days. After a determination has been made authorizing any activity pursuant to this subdivision, any Missouri bank may exercise such power as provided in subdivision (5) of this section without giving notice;

(5) When a determination is made pursuant to paragraph (e) of subdivision (4) of this section, the director shall issue a public interpretative letter or statement of no action regarding

the specific power authorized pursuant to subdivision (4) of this section; such interpretative letters and statements of no action shall be made with the name of the specific institution and related identifying facts deleted. Such interpretative letters and statements of no action shall be published on the division of finance public Internet web site, and filed with the office of the secretary of state for ten days prior to effectiveness. Any other Missouri bank may exercise any power approved by interpretative letter or statement of no action of the director pursuant to this subdivision; provided, the institution meets the requirements of the interpretative letter or statement of no action and the prescribed standards required for the activity permitted national banks in the interpretive letter. Such Missouri bank shall not be required to give the notice pursuant to paragraph (e) of subdivision (4) of this section. For the purposes of this subdivision and subdivision (4) of this section, "activity" shall mean the offering of any product or service or the conducting of any other activity; "federal law" shall mean any federal statute or regulation or an interpretive letter issued by the Office of the Comptroller of the Currency; "Missouri bank" shall mean any bank or trust company created pursuant to the laws of this state.

362.117. STATE BANK MAY BECOME TRUST COMPANY — PROCEDURE. — 1. Any bank may become a trust company with all the powers and subject to all the obligations and duties of trust companies organized under the provisions of this chapter.

2. A bank desiring to become a trust company shall proceed in the following manner:

(1) It shall call a meeting of its stockholders and shall give notice thereof as provided in section 362.044;

(2) At the meeting so called the stockholders of the bank may, by a vote of at least two-thirds of the entire capital stock issued, outstanding and entitled to vote, direct that the bank shall be transformed into a trust company. In the event that such action is taken by the prescribed vote, a resolution may be adopted fixing a future date certain upon which the state bank shall be transformed into a trust company and directing not less than five nor more than thirty of the stockholders of the bank, who shall be designated by name in the resolution, to proceed with the organization of the trust company;

(3) The designated stockholders shall proceed in all respects as is provided by law for other individuals in incorporating a trust company, except that the articles of agreement may provide that instead of the capital stock being paid up in lawful money the same may be paid up by an assignment of the assets of the state bank about to dissolve, the assignment to take effect at the aforesaid future date certain, and the director may allow the assignment to be accepted instead of cash, if the incorporators shall have certified in the articles of agreement that the net value of the assigned assets is equal to at least the full amount of the stock of the proposed trust company, and the director, as the result of an examination by himself, his deputies or his examiners, is satisfied that the assets are of such value, **and except further that the stockholders may request in the resolution referred to in subdivision (2) of subsection 2 of this section that the new charter contain the original incorporation date for such state bank to be dissolved and the director shall grant such request to be included in the new trust company public charter to be issued.**

362.170. UNIMPAIRED CAPITAL, DEFINED — RESTRICTIONS ON LOANS, AND TOTAL LIABILITY TO ANY ONE PERSON. — 1. As used in this section, the term "unimpaired capital" includes common and preferred stock, capital notes, the surplus fund, undivided profits and any reserves, not subject to known charges as shown on the next preceding published report of the bank or trust company to the director of finance.

2. No bank or trust company subject to the provisions of this chapter shall:

(1) Directly or indirectly, lend to any individual, partnership, corporation, limited liability company or body politic, either by means of letters of credit, by acceptance of drafts, or by discount or purchase of notes, bills of exchange, or other obligations of the individual, partnership, corporation, limited liability company or body politic an amount or amounts in the

aggregate which will exceed [fifteen] **the greater of: (i) twenty-five percent of the unimpaired capital of the bank or trust company, provided such bank or trust company has a composite rating of 1 or 2 under the Capital, Assets, Management, Earnings, Liquidity and Sensitivity (CAMELS) rating system of the Federal Financial Institute Examination Counsel (FFIEC); (ii) fifteen percent of the unimpaired capital of the bank or trust company** if located in a city having a population of one hundred thousand or over; twenty percent of the unimpaired capital of the bank or trust company if located in a city having a population of less than one hundred thousand and over seven thousand; and twenty-five percent of the unimpaired capital of the bank or trust company if located elsewhere in the state, with the following exceptions:

- (a) The restrictions in this subdivision shall not apply to:
 - a. Bonds or other evidences of debt of the government of the United States or its territorial and insular possessions, or of the state of Missouri, or of any city, county, town, village, or political subdivision of this state;
 - b. Bonds or other evidences of debt, the issuance of which is authorized under the laws of the United States, and as to which the government of the United States has guaranteed or contracted to provide funds to pay both principal and interest;
 - c. Bonds or other evidences of debt of any state of the United States other than the state of Missouri, or of any county, city or school district of the foreign state, which county, city, or school district shall have a population of fifty thousand or more inhabitants, and which shall not have defaulted for more than one hundred twenty days in the payment of any of its general obligation bonds or other evidences of debt, either principal or interest, for a period of ten years prior to the time of purchase of the investment and provided that the bonds or other evidences of debt shall be a direct general obligation of the county, city, or school district;
 - d. Loans to the extent that they are insured or covered by guaranties or by commitments or agreements to take over or purchase made by any department, bureau, board, commission, or establishment of the United States or of the state of Missouri, including any corporation, wholly owned, directly or indirectly, by the United States or of the state of Missouri, pursuant to the authority of any act of Congress or the Missouri general assembly heretofore or hereafter adopted or amended or pursuant to the authority of any executive order of the President of the United States or the governor of Missouri heretofore or hereafter made or amended under the authority of any act of Congress heretofore or hereafter adopted or amended, and the part of the loan not so agreed to be purchased or discounted is within the restrictive provisions of this section;
 - e. Obligations to any bank or trust company in the form of notes of any person, copartnership, association, corporation or limited liability company, secured by not less than a like amount of direct obligations of the United States which will mature in not exceeding five years from the date the obligations to the bank are entered into;
 - f. Loans to the extent they are secured by a segregated deposit account in the lending bank if the lending bank has obtained a perfected security interest in such account;
 - g. Evidences of debt which are direct obligations of, or which are guaranteed by, the Government National Mortgage Association, the Federal National Mortgage Association, the Student Loan Marketing Association, the Federal Home Loan Banks, the Federal Farm Credit Bank or the Federal Home Loan Mortgage Corporation, or evidences of debt which are fully collateralized by direct obligations of, and which are issued by, the Government National Mortgage Association, the Federal National Mortgage Association, the Student Loan Marketing Association, a Federal Home Loan Bank, the Federal Farm Credit Bank or the Federal Home Loan Mortgage Corporation;
- (b) The total liabilities to the bank or trust company of any individual, partnership, corporation or limited liability company may equal but not exceed thirty-five percent of the unimpaired capital of the bank or trust company; provided, that all of the total liabilities in excess of the legal loan limit of the bank or trust company as defined in this subdivision are upon paper based upon the collateral security of warehouse receipts covering agricultural products or the

manufactured or processed derivatives of agricultural products in public elevators and public warehouses subject to state supervision and regulation in this state or in any other state of the United States, under the following conditions: first, that the actual market value of the property held in store and covered by the receipt shall at all times exceed by at least fifteen percent the amount loaned upon it; and second, that the property covered by the receipts shall be insured to the full market value thereof against loss by fire and lightning, the insurance policies to be issued by corporations or individuals licensed to do business by the state in which the property is located, and when the insurance has been used to the limit that it can be secured, then in corporations or with individuals licensed to do an insurance business by the state or country of their incorporation or residence; and all policies covering property on which the loan is made shall have endorsed thereon, "loss, if any, payable to the holder of the warehouse receipts"; and provided further, that in arriving at the amount that may be loaned by any bank or trust company to any individual, partnership, corporation or limited liability company on elevator or warehouse receipts there shall be deducted from the thirty-five percent of its unimpaired capital the total of all other liabilities of the individual, partnership, corporation or limited liability company to the bank or trust company;

(c) In computing the total liabilities of any individual to a bank or trust company there shall be included all liabilities to the bank or trust company of any partnership of which the individual is a member, and any loans made for the individual's benefit or for the benefit of the partnership; of any partnership to a bank or trust company there shall be included all liabilities of and all loans made for the benefit of the partnership; of any corporation to a bank or trust company there shall be included all loans made for the benefit of the corporation and of any limited liability company to a bank or trust company there shall be included all loans made for the benefit of the limited liability company;

(d) The purchase or discount of drafts, or bills of exchange drawn in good faith against actually existing values, shall not be considered as money borrowed within the meaning of this section; and the purchase or discount of negotiable or nonnegotiable paper which carries the full recourse endorsements or guaranty or agreement to repurchase of the person, copartnership, association, corporation or limited liability company negotiating the same, shall not be considered as money borrowed by the endorser or guarantor or the repurchaser within the meaning of this section, provided that the files of the bank or trust company acquiring the paper contain the written certification by an officer designated for this purpose by its board of directors that the responsibility of the makers has been evaluated and the acquiring bank or trust company is relying primarily upon the makers thereof for the payment of the paper;

(e) For the purpose of this section, a loan guaranteed by an individual who does not receive the proceeds of the loan shall not be considered a loan to the guarantor;

(f) Investments in mortgage-related securities, as described in the Secondary Mortgage Market Enhancement Act of 1984, P.L. 98-440, excluding those described in subparagraph g. of paragraph (a) of subdivision (1) of this subsection, shall be subject to the restrictions of this section, provided that a bank or trust company may invest up to two times its legal loan limit in any such securities that are rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization;

(2) Nor shall any of its directors, officers, agents, or employees, directly or indirectly purchase or be interested in the purchase of any certificate of deposit, pass book, promissory note, or other evidence of debt issued by it, for less than the principal amount of the debt, without interest, for which it was issued. Every bank or trust company or person violating the provisions of this subdivision shall forfeit to the state the face value of the note or other evidence of debt so purchased;

(3) Make any loan or discount on the security of the shares of its own capital stock, or be the purchaser or holder of these shares, unless the security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, and stock so purchased or acquired shall be sold at public or private sale, or otherwise disposed of, within six months from the time

of its purchase or acquisition unless the time is extended by the finance director. Any bank or trust company violating any of the provisions of this subdivision shall forfeit to the state the amount of the loan or purchase;

(4) Knowingly lend, directly or indirectly, any money or property for the purpose of enabling any person to pay for or hold shares of its stock, unless the loan is made upon security having an ascertained or market value of at least fifteen percent more than the amount of the loan. Any bank or trust company violating the provision of this subdivision shall forfeit to the state the amount of the loan;

(5) No salaried officer of any bank or trust company shall use or borrow for himself or herself, directly or indirectly, any money or other property belonging to any bank or trust company of which the person is an officer, in excess of ten percent of the unimpaired capital of the bank or trust company, nor shall the total amount loaned to all salaried officers of any bank or trust company exceed twenty-five percent of the unimpaired capital of the bank or trust company. Where loans and a line of credit are made to salaried officers, the loans and line of credit shall first be approved by a majority of the board of directors or of the executive or discount committee, the approval to be in writing and the officer to whom the loans are made, not voting. The form of the approval shall be as follows:

We, the undersigned, constituting a majority of the of the (bank or trust company), do hereby approve a loan of \$..... or a line of credit of \$....., or both, to, it appearing that the loan or line of credit, or both, is not more than 10 percent of the unimpaired capital of (bank or trust company); it further appearing that the loan (money actually advanced) will not make the aggregate of loans to salaried officers more than 25 percent of the unimpaired capital of the bank or trust company.

.....

Dated this day of, 20.... Provided, if the officer owns or controls a majority of the stock of any other corporation, a loan to that corporation shall be considered for the purpose of this subdivision as a loan to the officer. Every bank or trust company or officer thereof knowingly violating the provisions of this subdivision shall, for each offense, forfeit to the state the amount lent;

(6) Invest or keep invested in the stock of any private corporation, **provided however, a bank or trust company may invest in equity stock in the Federal Home Loan Bank up to twice the limit described in subdivision (1) of this subsection and except as otherwise provided in this chapter.**

3. Provided, that the provisions in this section shall not be so construed as in any way to interfere with the rules and regulations of any clearinghouse association in this state in reference to the daily balances; and provided, that this section shall not apply to balances due from any correspondent subject to draft.

4. Provided, that a trust company which does not accept demand deposits shall be permitted to make loans secured by a first mortgage or deed of trust on real estate to any individual, partnership, corporation or limited liability company, and to deal and invest in the interest-bearing obligations of any state, or any city, county, town, village, or political subdivision thereof, in an amount not to exceed its unimpaired capital, the loans on real estate not to exceed sixty-six and two-thirds percent of the appraised value of the real estate.

5. Any officer, director, agent, clerk, or employee of any bank or trust company who willfully and knowingly makes or concurs in making any loan, either directly or indirectly, to any individual, partnership, corporation or limited liability company or by means of letters of credit, by acceptance of drafts, or by discount or purchase of notes, bills of exchange or other obligation

of any person, partnership, corporation or limited liability company, in excess of the amounts set out in this section, shall be deemed guilty of a class C felony.

6. A trust company in existence on October 15, 1967, or a trust company incorporated thereafter which does not accept demand deposits, may invest in but shall not invest or keep invested in the stock of any private corporation an amount in excess of fifteen percent of the capital and surplus fund of the trust company; provided, however, that this limitation shall not apply to the ownership of the capital stock of a safe deposit company as provided in section 362.105; nor to the ownership by a trust company in existence on October 15, 1967, or its stockholders of a part or all of the capital stock of one bank organized under the laws of the United States or of this state, nor to the ownership of a part or all of the capital of one corporation organized under the laws of this state for the principal purpose of receiving savings deposits or issuing debentures or loaning money on real estate or dealing in or guaranteeing the payment of real estate securities, or investing in other securities in which trust companies may invest under this chapter; nor to the continued ownership of stocks lawfully acquired prior to January 1, 1915, and the prohibition for investments in this subsection shall not apply to investments otherwise provided by law other than subdivision (4) of subsection 3 of section 362.105.

7. Any bank or trust company to which the provisions of subsection 2 of this section apply may continue to make loans pursuant to the provisions of subsection 2 of this section for up to five years after the appropriate decennial census indicates that the population of the city in which such bank or trust company is located has exceeded the limits provided in subsection 2 of this section.

362.245. BOARD OF DIRECTORS, QUALIFICATIONS — CUMULATIVE VOTING IN ELECTING DIRECTOR PERMITTED WHEN. — 1. The affairs and business of the corporation shall be managed by a board of directors, consisting of not less than five nor more than thirty-five stockholders who shall be elected annually; except, that trust companies in existence on October 13, 1967, may continue to divide the directors into three classes of equal number, as near as may be, and to elect one class each year for three-year terms. Notwithstanding any provision of this chapter to the contrary, a director who is not a stockholder shall have all the rights, privileges, and duties of a director who is a stockholder.

2. Each director shall be a citizen of the United States, and at least a majority of the directors must be residents of this state at the time of their election and during their continuance in office; provided, however, that if a director actually resides within a radius of one hundred miles of the banking house of said bank or trust company, even though his or her residence be in another state adjoining and contiguous to the state of Missouri, he or she shall for the purposes of this section be considered as a resident of this state and in the event such director shall be a nonresident of the state of Missouri he or she shall upon his or her election as a director file with the president of the banking house **or such other chief executive office as otherwise permitted by this chapter** written consent to service of legal process upon him in his or her capacity as a director by service of the legal process upon the president as though the same were personally served upon the director in Missouri.

3. If at a time when not more than a majority of the directors are residents of this state, any director shall cease to be a resident of this state or adjoining state as defined in subsection 2 of this section, he or she shall forthwith cease to be a director of the bank or trust company and his or her office shall be vacant.

4. No person shall be a director in any bank or trust company against whom such bank or trust company shall hold a judgment.

5. Cumulative voting shall only be permitted at any meeting of the members or stockholders in electing directors when it is provided for in the articles of incorporation or bylaws.

362.270. ORGANIZATIONAL MEETING OF DIRECTORS. — Within thirty days after the date on which the annual meeting of the stockholders is held the directors elected at such meeting shall, after subscribing the oath required in section 362.250, hold a meeting at which they shall elect a chief executive officer which the board may designate as president or another appropriate title, from their own number, one or more vice presidents, and such other officers as are provided for by the bylaws to be elected annually, **except as otherwise provided by law.**

362.275. MONTHLY MEETING OF BOARD — REVIEW OF CERTAIN TRANSACTIONS — RATIFICATION OF POLL. — 1. The board of directors of every bank and trust company organized or doing business pursuant to this chapter shall hold a regular meeting at least once each month, or, upon application to and acceptance by the director of finance, at such other times, not less frequently than once each calendar quarter as the director of finance shall approve, which approval may be rescinded at any time. There shall be submitted to the meeting a list giving the aggregate of loans, discounts, acceptances and advances, including overdrafts, to each individual, partnership, corporation or person whose liability to the bank or trust company has been created, extended, renewed or increased since the cut-off date prior to the regular meeting by more than an amount to be determined by the board of directors, which minimum amount shall not exceed five percent of the bank's legal loan limit, except the minimum amount shall in no case be less than ten thousand dollars, and a second list of the aggregate indebtedness of each borrower whose aggregate indebtedness exceeds five times such minimum amount, except the aggregate indebtedness shall in no case be less than fifty thousand dollars; and a third list showing all paper past due thirty days or more; and a fourth list showing the aggregate of the then existing indebtedness and liability to the bank or trust company of each of the directors, officers, and employees thereof. The information called for in the second, third, and fourth lists shall be submitted as of the date of the regular meeting or as of a reasonable date prior thereto. If there is collateral to the indebtedness, it shall be described as of the date of the lists. No bills payable shall be made, and no bills shall be rediscounted by the bank or trust company except with the consent or ratification of the board of directors; provided, however, that if the bank or trust company is a member of the federal reserve system, rediscounts may be made to it by the officers in accordance with its rules, a list of all rediscounts to be submitted to the next regular meeting of the board. The director of finance may require, by order, that the board of directors of a bank or trust company approve or disapprove every purchase or sale of securities and every discount, loan, acceptance, renewal or other advance including every overdraft over an amount to be specified in the director's order and may also require that the board of directors review, at each monthly meeting, a list of the aggregate indebtedness of each borrower whose aggregate indebtedness exceeds an amount to be specified in the director's order. The minutes of the meeting shall indicate the compliance with the requirements of this section. Furthermore, the debtor's identity on the information required in this subsection, may be masked by code to conceal the actual debtor's identity only for information mailed to or otherwise provided directors who are not physically present at the board meeting. The code used shall be revealed to all directors at the beginning of each board meeting for which this procedure is used.

2. **For any issue in need of immediate action,** the board of directors **or the executive committee of the board as defined in section 362.253** may ratify a poll taken by the bank or trust company's senior officers on any issue in need of immediate action and ultimate board approval, provided:

(1) The vote by poll meets or exceeds a majority of the board of directors unless a greater number of votes for board action is required by the bank or trust company's articles of agreement, bylaws or the law;

(2) Any director who is a member of the board and has a pecuniary interest in the board's action, recuses himself or herself from the poll, takes no part, and does not vote on the board ratification of such issue; and

(3) Such poll is made available by director's name and vote to the board prior to the board's vote on ratification.

3. If the board ratifies such poll as provided in subsection 2 of this section, the ratification shall have the same force and effect as the board originally approving such action at a board meeting, as of the date the poll is approved] **enter into a unanimous consent agreement as permitted by subsection 2 of section 351.340, RSMo. Such consent may be communicated by facsimile transmission or by other authenticated record, separately by each director, provided each consent is signed by the director and the bank has no indication such signature is not the director's valid consent. When the bank or trust company has received unanimous consent from the board or executive committee, the action voted on shall be considered approved.**

362.335. OFFICERS AND EMPLOYEES — LIMITATION ON POWERS — APPOINTMENT OF PRESIDENT NOT REQUIRED — CHIEF EXECUTIVE OFFICER NOT REQUIRED TO BE MEMBER OF BOARD, WHEN. — 1. The directors may appoint and remove any cashier, secretary or other officer or employee at pleasure.

2. The cashier, secretary or any other officer or employee shall not endorse, pledge or hypothecate any notes, bonds or other obligations received by the corporation for money loaned, until such power and authority is given the cashier, secretary or other officer or employee by the board of directors, pursuant to a resolution of the board of directors, a written record of which proceedings shall first have been made; and a certified copy of the resolution, signed by the president and cashier or secretary with the corporate seal annexed, shall be conclusive evidence of the grant of this power; and all acts of endorsing, pledging and hypothecating done by the cashier, secretary or other officer or employee of the bank or trust company without the authority from the board of directors shall be null and void. The board of directors may designate a chief executive officer who is not the president, but who shall perform all the duties of the president required by this section.

3. **A bank or trust company may appoint such officers as provided for in the articles of agreement, bylaws or as otherwise provided by law, however provided the directors appoint an officer that is also designated as the chief executive officer, the bank or trust company shall not be required to appoint an officer designated as president. When the chief executive officer owns or controls fifty percent or more of the voting stock of the bank or trust company, such chief executive officer shall not be required to be a member of the board of directors, unless the director of the division of finance determines such officer's presence is necessary to prevent unsafe and unsound banking activity.**

364.120. INTEREST OR DISCOUNT, AMOUNT ALLOWED, COMPUTATION — PREPAYMENT OF OBLIGATION — REFUND CREDIT, CALCULATION. — 1. A premium finance company shall not charge, contract for, receive, or collect any interest or discount charge other than as permitted by sections 364.100 to 364.160.

2. The interest or discount is to be computed on the balance of the premiums due, after subtracting the down payment made by the insured in accordance with the premium finance agreement, from the effective date of the insurance contract, for which the premiums are being advanced, to and including the date when the final installment of the premium finance agreement is payable.

3. The interest or discount shall be a maximum of fifteen dollars per one hundred dollars per year, which shall be computed as a fifteen percent add-on interest rate, plus an additional service charge of ten dollars per premium finance agreement which need not be refunded on cancellation or prepayment; except that, if the insurance premiums being financed are for other than personal, family or household purposes, the parties to the premium finance agreement may agree to any rate of interest which shall be stated in the premium finance agreement. The interest or discount permitted by this subsection anticipates timely repayment in consecutive monthly

installments equal in amount for a period of one year. For repayment in greater or lesser periods or in unequal, irregular, or other than monthly installments, the interest or discount may be computed at an equivalent effective rate having due regard for the timely payments of installments.

4. Notwithstanding the provisions of any premium finance agreement, any insured may prepay the obligation in full at any time and shall receive a refund credit[, which shall represent at least as great a proportion of the interest or discount as the sum of the periodic balances, after the month in which prepayment is made, bears to the sum of all periodic balances under the schedule of installments in the agreement; except that, if the initial term of the contract is greater than sixty-one months, the interest earned shall be computed to the date of prepayment on the basis of the rate of interest originally contracted for computed on the actual unpaid principal balances for the time actually outstanding. Where the amount of the refund credit is less than one dollar, no refund need be made]. **The amount of the refund shall be calculated by the actuarial method of calculating refunds and no more interest shall be retained by the lender than is actually earned.**

365.100. LATE PAYMENT CHARGES, INTEREST ON DELINQUENT PAYMENTS, ATTORNEY FEES — DISHONORED OR INSUFFICIENT FUNDS FEE. — If the contract so provides, the holder thereof may charge and collect:

(1) [A delinquency and collection charge on each installment in default for a period of not less than ten days in an amount not to exceed five percent of each installment or five dollars, whichever is less] **A charge for late payment on each installment or minimum payment in default for a period of not less than fifteen days in an amount not to exceed five percent of each installment due or the minimum payment due or twenty-five dollars, whichever is less; except that, a minimum charge of ten dollars may be made, or when the installment is for twenty-five dollars or less, a charge for late payment for a period of not less than fifteen days shall not exceed five dollars,** provided, however, that a minimum charge of one dollar may be made;

(2) Interest on each delinquent payment at a rate which shall not exceed the highest lawful contract rate. In addition to such charge, the contract may provide for the payment of attorney fees not exceeding fifteen percent of the amount due and payable under the contract where the contract is referred for collection to any attorney not a salaried employee of the holder, plus court costs; **and**

(3) A dishonored or insufficient funds check fee equal to such fee as provided in section 408.653, RSMo, in addition to fees charged by a bank for each check, draft, order or like instrument which is returned unpaid.

365.140. PREPAYMENT OF DEBT UNDER RETAIL INSTALLMENT CONTRACT — REFUND, HOW COMPUTED. — Notwithstanding the provisions of any retail installment contract to the contrary any buyer may prepay in full, whether by payment in cash, extension or renewal, at any time before maturity the debt of any retail installment contract and on so paying the debt shall receive a refund credit thereon for the anticipation of payment. The amount of the refund shall [represent at least as great a proportion of the time price differential as the sum of the monthly time balances beginning one month after prepayment is made bears to the sum of all the monthly time balances under the schedule of payment in the contract after deducting from the refund an acquisition cost of fifteen dollars; except that, if the initial term of the contract is greater than sixty-one months, the amount of the time price differential earned shall be computed to the date of prepayment on the basis of the rate originally contracted for on the actual unpaid time balances for the time actually outstanding. Any insurance obviated by reason of prepayment shall be canceled by the holder and any refund of premiums received by the holder shall be treated in accordance with the provisions of subsection 2 of section 365.080. Where the amount of credit

is less than one dollar no refund need be made] **be calculated by the actuarial method. The lender shall retain no more interest than is actually earned whenever a retail installment contract is prepaid. Any insurance rendered unnecessary by reason of prepayment shall be canceled by the holder and any refund of premiums received by the holder shall be treated in accordance with the provisions of subsection 2 of section 365.080.**

367.518. TITLE LOAN AGREEMENTS, CONTENTS, FORM. — 1. Each title loan agreement shall disclose the following:

- (1) All disclosures required by the federal Truth in Lending Act and regulation Z;
- (2) That the transaction is a loan secured by the pledge of titled personal property and, in at least ten-point bold type, that nonpayment of the loan may result in loss of the borrower's vehicle or other titled personal property;
- (3) The name, business address, telephone number and certificate number of the title lender, and the name and residential address of the borrower;
- (4) The monthly interest rate to be charged;
- (5) A statement which shall be in at least ten-point bold type, separately acknowledged by the signature of the borrower and reading as follows: You may cancel this loan without any costs by returning the full principal amount to the lender by the close of the lender's next full business day;
- (6) The location where the titled personal property may be delivered if the loan is not paid and the hours such location is open for receiving such deliveries; and
- (7) Any additional disclosures deemed necessary by the director or required pursuant to sections 400.9-101 to [400.9-508] **400.9-710, RSMo.**

2. The division of finance is directed to draft a form to be used in title loan transactions. Use of this form is not mandatory; however, use of such form, properly completed, shall satisfy the disclosure provisions of this section.

375.018. ISSUANCE OF PRODUCER'S LICENSE, DURATION — LINES OF AUTHORITY — BIENNIAL RENEWAL FEE FOR AGENTS, DUE WHEN — REINSTATEMENT OF LICENSE, WHEN — FAILURE TO COMPLY, EFFECT. — 1. Unless denied licensure pursuant to section 375.141, persons who have met the requirements of sections 375.014, 375.015 and 375.016 shall be issued an insurance producer license for a term of two years. An insurance producer may qualify for a license in one or more of the following lines of authority:

- (1) Life insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;
- (2) Accident and health or sickness insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income;
- (3) Property insurance coverage for the direct or consequential loss or damage to property of every kind;
- (4) Casualty insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property;
- (5) Variable life and variable annuity products insurance coverage provided under variable life insurance contracts and variable annuities;
- (6) Personal lines property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;
- (7) Credit-limited line credit insurance;
- (8) Any other line of insurance permitted under state laws or regulations.

2. Any insurance producer who is certified by the Federal Crop Insurance Corporation on September 28, 1995, to write federal crop insurance shall not be required to have a property license for the purpose of writing federal crop insurance.

3. The biennial renewal fee for a producer's license is one hundred dollars for each license. A producer's license shall be renewed biennially on the anniversary date of issuance and continue in effect until refused, revoked or suspended by the director in accordance with section 375.141.

4. An individual insurance producer who allows his or her license to expire may, within twelve months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination. The insurance producer seeking relicensing pursuant to this subsection shall provide proof that the continuing education requirements have been met and shall pay a penalty of twenty-five dollars per month that the license was expired in addition to the requisite renewal fees that would have been paid had the license been renewed in a timely manner. Nothing in this subsection shall require the director to relicense any insurance producer determined to have violated the provisions of section 375.141.

5. **A business entity insurance producer that allows the license to expire may, within twelve months of the due date of the renewal, reinstate the license by paying the license fee that would have been paid had the license been renewed in a timely manner plus a penalty of twenty-five dollars per month that the license was expired.**

6. The license shall contain the name, address, identification number of the insurance producer, the date of issuance, the lines of authority, the expiration date and any other information the director deems necessary.

[6.] 7. Insurance producers shall inform the director by any means acceptable to the director of a change of address within thirty days of the change. Failure to timely inform the director of a change in legal name or address may result in a forfeiture not to exceed the sum of ten dollars per month.

[7.] 8. In order to assist the director in the performance of his or her duties, the director may contract with nongovernmental entities, including the National Association of Insurance Commissioners or any affiliates or subsidiaries that the organization oversees or through any other method the director deems appropriate, to perform any ministerial functions, including the collection of fees, related to producer licensing that the director may deem appropriate.

[8.] 9. Any bank or trust company in the sale or issuance of insurance products or services shall be subject to the insurance laws of this state and rules adopted by the department of insurance.

[9.] 10. A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance, such as a long-term medical disability, may request a waiver of those procedures. The producer may also request a waiver of any other fine or sanction imposed for failure to comply with renewal procedures.

[375.018. ISSUANCE OF PRODUCER'S LICENSE, DURATION — LINES OF AUTHORITY — BIENNIAL RENEWAL FEE FOR AGENTS, DUE WHEN — REINSTATEMENT OF LICENSE, WHEN — FAILURE TO COMPLY, EFFECT. — 1. In addition to any other requirement imposed by law or rule, no applicant for an agent's or broker's license shall be qualified therefor unless, within one year immediately preceding the date a written application is made to the director, the applicant has successfully completed a course of study approved by the director requiring the following hours of study, or the equivalent thereof, for the following licenses: Not less than twenty hours for a license limited to fire and allied lines insurance and twenty hours for general casualty insurance, or forty hours combined of fire and allied lines and general casualty insurance; and not less than fifteen hours for a license limited to life insurance and fifteen hours for accident and health insurance. Any agent who is certified by the Federal Crop Insurance Corporation on September 28, 1985, to write federal crop insurance shall not be required to have a fire and allied lines license for the purpose of writing federal crop insurance. The director shall grant authority until revoked to such public and private educational organizations, technical colleges, trade schools, insurance companies or insurance trade organizations, or other approved organizations that provide satisfactory evidence that the courses of study actually taken by the applicant were in substantial compliance with the requirements established by the director. The director shall

require the applicant to furnish a certificate of completion of any required courses of study from the authorized educational organizations. Every applicant seeking approval for a course of study by the director under this section shall pay to the director a filing fee of fifty dollars per course, unless it is a not-for-profit agents' group or association which provides no compensation to the course instructor. Such fee shall accompany any application form required by the director for such course approval. Courses shall be approved for a period of no more than one year. Applicants holding courses intended to be offered for a longer period must reapply for approval. Courses approved by the director prior to August 28, 1993, for which continuous certification is sought should be resubmitted for approval sixty days before the anniversary date of the director's previous approval.

2. Before any insurance agent's license is issued, there shall be on file in the office of the director the following:

(1) A written application made under oath by the prospective licensee in the form prescribed by the director. The application form shall contain answers to the following interrogatories: name, address, date of birth, sex, past employment for the three-year period immediately preceding the date of the application, past experience in insurance, status of accounts with insurance companies and agents, criminal convictions or pleas of nolo contendere for felonies or misdemeanors, or currently pending felony charges or misdemeanor charges excluding minor traffic violations, and if a surety bond has ever been refused or revoked as a result of dishonest acts or practices. In addition, the application form shall contain a statement as to the kinds of insurance business in which the applicant intends to engage; and

(2) A fee of twenty-five dollars must accompany each application for an agent's license.

3. The director shall, in order to determine the competency of every individual applicant for a license, require the individual applicant to take and pass to the satisfaction of the director a written examination upon the kind or kinds of insurance business specified in his or her application. Such examinations shall be held at such times and places as the director shall from time to time determine. The director may, at his order or discretion, designate an independent testing service to prepare and administer such examination subject to direction and approval by the director, and examination fees charged by such service shall be paid by the applicant. An examination fee represents an administrative expense and is not refundable.

4. The examination shall be as prescribed by the director and shall be of sufficient scope so as to reasonably test the applicant's knowledge relative to the kind or kinds of insurance which may be dealt with under the license applied for by the applicant. The applicant shall be notified of the result of the examination within twenty working days of the examination. The applicant may begin to act as an agent for those lines for which the applicant has passed an examination and completed the study requirements required by subsection 1 of this section and a license has been received by the applicant.

5. No examination or approved course of study required by subsection 1 of this section shall be required of:

(1) An applicant who is a ticket-selling agent or representative of a common carrier or other company who acts as an insurance agent only in reference to the issuance of insurance contracts primarily for covering the risk of travel;

(2) An applicant who holds a current license in another state which requires a written examination satisfactory to the director;

(3) An applicant for the same kind of license as that which was held in another state within one year next preceding the date of the application and which the applicant secured by passing a written examination and fulfilling comparable study requirements, and provided that the applicant is a legal resident of this state at the time of the application and is otherwise deemed by the director to be fully qualified;

(4) An applicant who is an owner of an individually owned business, his employee, or an officer or employee of a partnership or corporation who solicits, negotiates or procures credit life, accident and health or property insurance in connection with a loan or a retail time sale

transaction made by the corporation, partnership, or individual business, or in a business in which there is conducted wholly or partly retail installment transactions under chapter 365, RSMo;

(5) Any person selling title insurance.

6. Every application for a license which may be granted without examination shall be accompanied by a fee of twenty-five dollars.

7. Subsection 1 of this section shall not apply to any person licensed as an agent or broker on January 1, 1986, unless the agent or broker applies for a type of license or line of insurance for which the agent or broker is not licensed as of January 1, 1986.

8. The biennial renewal fee for an agent's license is twenty-five dollars for each license. An agent's license shall be renewed biennially on the anniversary date of issuance and continue in effect until refused, revoked or suspended by the director in accordance with section 375.141; except that if the biennial renewal fee for the license is not paid within ninety days after the biennial anniversary date or if the agent has not complied with section 375.020 if applicable within ninety days after the biennial anniversary date, the license terminates as of ninety days after the biennial anniversary date.

9. Any nonresident agent who has not complied with the provisions of section 375.020 may not reapply for an agent license until that agent has taken the continuing education courses required under section 375.020.

10. An agent whose license terminated for nonpayment of the biennial renewal fee or noncompliance with section 375.020 may apply for a new agent's license because of such nonpayment or noncompliance, except that such agent must comply with all provisions of this section regarding issuance of a new license if such license was terminated for noncompliance with section 375.020, or shall pay a late fee at the rate of twenty-five dollars per month or fraction thereof after the biennial anniversary date if such license was terminated for nonpayment of the renewal fee, except that nothing in this subsection shall require the director to relicense any agent determined to have violated the provisions of subsection 1 of section 375.141.]

375.065. CREDIT INSURANCE PRODUCER LICENSE — ORGANIZATIONAL CREDIT ENTITY LICENSE — APPLICATION — FEE — RULES — ORGANIZATION CREDIT AGENCY LICENSE ISSUED, PROCEDURE, RULES — EFFECTIVE DATE, TERMINATION DATE. — 1. Notwithstanding any other provision of this chapter, the director may license credit insurance producers by issuing individual licenses to each credit insurance producer or by issuing an organizational credit entity license to a resident or nonresident applicant who has complied with the requirements of **subsections 1 to 7 of this section**. An organizational credit entity license authorizes the employees of the licensee who are at least eighteen years of age, acting on behalf of and supervised by the licensee and whose compensation is not primarily paid on a commission basis to act as insurance producers for the following types of insurance:

- (1) Credit life insurance;
- (2) Credit accident and health insurance;
- (3) Credit property insurance;
- (4) Credit [involuntary unemployment] **mortgage life** insurance;
- (5) **Credit mortgage disability insurance;**
- (6) **Credit involuntary unemployment insurance;**
- (7) Any other form of credit or credit-related insurance approved by the director.

2. To obtain an organizational credit entity license, an applicant shall submit to the director the uniform business entity application along with a fee of one hundred dollars. All applications shall include the following information:

(1) The name of the business entity, the business address or addresses of the business entity and the type of ownership of the business entity. If a business entity is a partnership or unincorporated association, the application shall contain the name and address of every person or corporation having a financial interest in or owning any part of the business entity. If the business entity is a corporation, the application shall contain the names and addresses of all

officers and directors of the corporation. If the business entity is a limited liability company, the application shall contain the names and addresses of all members and officers of the limited liability company;

(2) A list of all persons employed by the business entity and to whom it pays any salary or commission for the sale, solicitation, negotiation or procurement of any contracts of credit life, credit accident and health, credit involuntary unemployment, credit leave of absence, credit property, **credit mortgage life, credit mortgage disability** or any other form of credit or credit-related insurance approved by the director. Any changes in the list of employees of the business entity due to hiring or termination or any other reason shall be submitted to the director within ten days of the change.

3. All persons included on the list referenced in subdivision (2) of subsection 2 of this section shall be deemed insurance producers pursuant to the provisions of subsection 1 of section 375.014 for the authorized lines of credit insurance, and shall be deemed licensed insurance producers for the purposes of section 375.141, notwithstanding the fact that individual licenses are not issued to those persons included on the business entity application list.

4. Upon receipt of a completed application and payment of the requisite fees, the director, if satisfied that an applicant has complied with all license requirements contained in **subsections 1 to 7 of this section**, shall issue the applicant an organizational credit business entity license which shall remain in effect for one year or until suspended or revoked by the director, or until the organizational credit business entity ceases to operate as a legal entity in this state. Each organizational credit business entity shall renew its license annually, on or before the anniversary date of the original issuance of the license, by:

(1) Paying a renewal fee of fifty dollars;

(2) Providing the director a list of all employees selling, soliciting, negotiating and procuring credit insurance, and paying a fee of eighteen dollars per each employee.

5. Licenses of organizational credit business entities which are not timely renewed shall expire on the anniversary date of the original issuance. An organizational credit business entity that allows the license to expire may, within twelve months of the due date of the renewal, reinstate the license by paying the license fee that would have been paid had the license been renewed in a timely manner plus a penalty of twenty-five dollars per month that the license was expired.

6. Notwithstanding any other provision of law to the contrary, **subsections 1 to 7 of this section** shall not be construed to prohibit an insurance company from paying a commission or providing another form of remuneration to a duly licensed organizational credit business entity.

7. The director shall have the power to promulgate such rules and regulations as are necessary to implement the provisions of **subsections 1 to 7 of this section**. No rule or portion of a rule promulgated pursuant to the authority of **subsections 1 to 7 of this section** shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

8. Notwithstanding any other provision of this chapter, the director may license credit insurance agents by issuing individual licenses to such agents or by issuing an organizational credit agency license to a resident or nonresident applicant who has complied with the requirements of subsections 8 to 14 of this section. An organizational credit agency license authorizes the licensee's employees who are at least eighteen years of age, acting on behalf of and supervised by the licensee and whose compensation is not primarily paid on a commission basis to act as agents for the following types of insurance:

(1) Credit life insurance;

(2) Credit accident and health insurance;

(3) Credit property insurance;

(4) Credit mortgage life insurance;

(5) Credit mortgage disability insurance;

(6) Credit involuntary unemployment insurance;

(7) Any other form of credit or credit-related insurance approved by the director.

9. To obtain an organizational credit agency license, an applicant shall submit to the director an application in a form prescribed by the director along with a fee of one hundred dollars. All applications shall include the following information:

(1) The name of the agency, the business address or addresses of the agency and the type of ownership of the agency. If an agency is a partnership or unincorporated association, the application shall contain the name and address of every person or corporation having a financial interest in or owning any part of such agency. If an agency is a corporation, the application shall contain the names and addresses of all officers and directors of the corporation. If the agency is a limited liability company, the application shall contain the names and addresses of all members and officers of the limited liability company;

(2) A list of all persons employed by the agency and to whom the agency pays any salary or commission for the solicitation or negotiation of any contracts of credit life, credit accident and health, credit involuntary unemployment, credit leave of absence, credit property, credit mortgage life, credit mortgage disability or any other form of credit or credit-related insurance approved by the director.

10. An organizational credit agency authorized pursuant to subsections 8 to 14 of this section shall be deemed a licensed agency for the purposes of subsection 1 of section 375.061 and section 375.141. All persons included on the list referenced in subdivision (2) of subsection 9 of this section shall be deemed licensed agents pursuant to the provision of section 375.016 for the authorized lines of credit insurance, and shall be deemed licensed agents for the purposes of section 375.141, notwithstanding the fact that individual licenses are not issued to those persons included on such list.

11. Upon receipt of a completed application and payment of the requisite fees, the director, if satisfied that an applicant organizational credit agency has complied with all license requirements contained in subsections 8 to 14 of this section, shall issue the applicant an organizational credit agency license which shall remain in effect for one year or until suspended or revoked by the director, or until the agency ceases to operate as a legal entity in this state. Each organizational credit agency shall renew its license annually, on or before the anniversary date of the original issuance of the license, by:

(1) Paying a renewal fee of fifty dollars;

(2) Providing the director a list of all employees soliciting, negotiating and procuring credit insurance, and paying a fee of eighteen dollars per each such employee.

12. Licenses which are not timely renewed shall expire thirty days after the anniversary date of the original issuance. The director shall assess a penalty of twenty-five dollars per month if a formerly licensed credit agency operates as such without a current license.

13. Notwithstanding any other provision of law to the contrary, subsections 8 to 14 of this section shall not be construed to prohibit an insurance company from paying a commission or providing another form of remuneration to a duly licensed organizational credit agency.

14. The director shall have the power to promulgate such rules and regulations as are necessary to implement the provisions of subsections 8 to 14 of this section. No rule or portion of a rule promulgated pursuant to the authority of subsections 8 to 14 of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

15. The provisions of subsections 1 to 7 of this section shall become effective January 1, 2003, and the provisions of subsections 8 to 14 of this section shall terminate December 31, 2002.

[375.065. CREDIT INSURANCE PRODUCER LICENSE — ORGANIZATIONAL CREDIT ENTITY LICENSE — APPLICATION — FEE — RULES — ORGANIZATION CREDIT AGENCY

LICENSE ISSUED, PROCEDURE, RULES — EFFECTIVE DATE, TERMINATION DATE. — 1. Notwithstanding any other provision of this chapter, the director may license credit insurance agents by issuing individual licenses to such agents or by issuing an organizational credit agency license to a resident or nonresident applicant who has complied with the requirements of this section. An organizational credit agency license authorizes the licensee's employees who are at least eighteen years of age, acting on behalf of and supervised by the licensee and whose compensation is not primarily paid on a commission basis to act as agents for the following types of insurance:

- (1) Credit life insurance;
- (2) Credit accident and health insurance;
- (3) Credit property insurance;
- (4) Credit involuntary unemployment insurance;
- (5) Any other form of credit or credit-related insurance approved by the director.

2. To obtain an organizational credit agency license, an applicant shall submit to the director an application in a form prescribed by the director along with a fee of one hundred dollars. All applications shall include the following information:

(1) The name of the agency, the business address or addresses of the agency and the type of ownership of the agency. If an agency is a partnership or unincorporated association, the application shall contain the name and address of every person or corporation having a financial interest in or owning any part of such agency. If an agency is a corporation, the application shall contain the names and addresses of all officers and directors of the corporation. If the agency is a limited liability company, the application shall contain the names and addresses of all members and officers of the limited liability company;

(2) A list of all persons employed by the agency and to whom the agency pays any salary or commission for the solicitation or negotiation of any contracts of credit life, credit accident and health, credit involuntary unemployment, credit leave of absence, credit property or any other form of credit or credit-related insurance approved by the director.

3. An organizational credit agency authorized pursuant to this section shall be deemed a licensed agency for the purposes of subsection 1 of section 375.061 and section 375.141. All persons included on the list referenced in subdivision (2) of subsection 2 of this section shall be deemed licensed agents pursuant to the provision of section 375.016 for the authorized lines of credit insurance, and shall be deemed licensed agents for the purposes of section 375.141, notwithstanding the fact that individual licenses are not issued to those persons included on such list.

4. Upon receipt of a completed application and payment of the requisite fees, the director, if satisfied that an applicant organizational credit agency has complied with all license requirements contained in this section, shall issue the applicant an organizational credit agency license which shall remain in effect for one year or until suspended or revoked by the director, or until the agency ceases to operate as a legal entity in this state. Each organizational credit agency shall renew its license annually, on or before the anniversary date of the original issuance of the license, by:

- (1) Paying a renewal fee of fifty dollars;
- (2) Providing the director a list of all employees soliciting, negotiating and procuring credit insurance, and paying a fee of eighteen dollars per each such employee.

5. Licenses which are not timely renewed shall expire thirty days after the anniversary date of the original issuance. The director shall assess a penalty of twenty-five dollars per month if a formerly licensed credit agency operates as such without a current license.

6. Notwithstanding any other provision of law to the contrary, this section shall not be construed to prohibit an insurance company from paying a commission or providing another form of remuneration to a duly licensed organizational credit agency.

7. The director shall have the power to promulgate such rules and regulations as are necessary to implement the provisions of this section. No rule or portion of a rule promulgated

pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.]

375.919. USE OF LANGUAGE OTHER THAN ENGLISH PERMITTED, WHEN, DISCLOSURES — CONTRACTUAL RELATIONSHIP REQUIRED FOR APPLICABILITY OF CERTAIN RULES — MISREPRESENTATION, PENALTY. — 1. An insurer, as defined in section 375.001, may provide an insurance policy, endorsement, rider and any explanatory material in a language other than English. In the event of a dispute regarding the insurance or advertising material, the English language version shall dictate the resolution. If a policy, endorsement or rider is provided in a language other than English, the insurer shall also, at the same time, provide to the policyholder a copy of such policy, endorsement or rider in English, and shall disclose on such document, in both English and the other language, the following:

- (1) The translation is for informational purposes only; and
- (2) The English language version of the policy will be controlling unless the language in the other language version is shown to be a fraudulent misrepresentation.

2. Notwithstanding any other provision of law to the contrary, no rule promulgated by the department setting forth criteria for payment of fees by or integration of systems of an insurer and an entity administering claims involving injured employees shall apply to such parties, unless a contractual relationship between such parties to administer claims on behalf of one or more employers is established and the provisions of the rule are not contrary to specific terms in the contract.

3. Any knowing misrepresentation in providing a policy, endorsement, rider or explanatory materials in a language other than English is a violation of sections 375.930 to 375.948.

385.050. REVISION OF PREMIUM SCHEDULES, PROCEDURE FOR — REFUNDS PAID, WHEN — LIMIT ON CHARGE FOR CREDIT LIFE. — 1. Any insurer may revise its schedules of premium rates from time to time and shall file the revised schedules with the director. No insurer shall issue any credit life insurance policy or credit accident and sickness insurance policy for which the premium rate exceeds that determined by the schedules of the insurer as then approved by the director.

2. Each individual policy or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto; provided, however, that no refund of less than one dollar need be made. The formula to be used in computing the refund shall be the ["sum of the digits" formula with respect to decreasing term credit life insurance and credit accident and sickness insurance, and the pro rata unearned gross premium with respect to level term credit life insurance] **actuarial method of calculating refunds which produces a refund equal to the original premium multiplied by the ratio of the sum of the remaining insured balances divided by the sum of the original insured balances as of the due date nearest the date of prepayment in full.**

3. If a creditor requires a debtor to make any payment for credit life insurance or credit accident and sickness insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to the debtor and shall promptly make an appropriate credit to the account.

4. The amount charged to a debtor for any credit life or credit accident and sickness insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.

5. Nothing in sections 385.010 to 385.080 shall be construed to authorize any payments for insurance now prohibited under any statute, or rule thereunder, governing credit transactions.

400.9-102. DEFINITIONS AND INDEX OF DEFINITIONS.—(a) In this article:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost;

(2) "Account", except as used in "account for", means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card;

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper;

(4) "Accounting", except as used in "accounting for", means a record:

(A) Authenticated by a secured party;

(B) Indicating the aggregate unpaid secured obligations as of a date not more than thirty-five days earlier or thirty-five days later than the date of the record; and

(C) Identifying the components of the obligations in reasonable detail;

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) Which secures payment or performance of an obligation for:

(i) Goods or services furnished in connection with a debtor's farming operation; or

(ii) Rent on real property leased by a debtor in connection with its farming operation;

(B) Which is created by statute in favor of a person that:

(i) In the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) Leased real property to a debtor in connection with the debtor's farming operation; and

(C) Whose effectiveness does not depend on the person's possession of the personal property;

(6) "As-extracted collateral" means:

(A) Oil, gas, or other minerals that are subject to a security interest that:

(i) Is created by a debtor having an interest in the minerals before extraction; and

(ii) Attaches to the minerals as extracted; or

(B) Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction;

(7) "Authenticate" means:

(A) To sign; or

(B) To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record;

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies;

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like;

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral;

(11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, **a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods.** The term does not include (i) charters or other contracts involving the use or hire of a vessel or (ii) **records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.** If a transaction is evidenced [both by a security agreement or lease and] by **records that include** an instrument or series of instruments, the group of records taken together constitutes chattel paper;

(12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

- (A) Proceeds to which a security interest attaches;
 - (B) Accounts, chattel paper, payment intangibles, and promissory notes that have been sold;
- and

- (C) Goods that are the subject of a consignment;

(13) "Commercial tort claim" means a claim arising in tort with respect to which:

- (A) The claimant is an organization; or
- (B) The claimant is an individual and the claim:
 - (i) Arose in the course of the claimant's business or profession; and
 - (ii) Does not include damages arising out of personal injury to or the death of an individual;

(14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer;

(15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

- (A) Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

- (B) Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer;

(16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books;

(17) "Commodity intermediary" means a person that:

- (A) Is registered as a futures commission merchant under federal commodities law; or
- (B) In the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law;

(18) "Communicate" means:

- (A) To send a written or other tangible record;
- (B) To transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule;

(19) "Consignee" means a merchant to which goods are delivered in a consignment;

(20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

- (A) The merchant:
 - (i) Deals in goods of that kind under a name other than the name of the person making delivery;
 - (ii) Is not an auctioneer; and
 - (iii) Is not generally known by its creditors to be substantially engaged in selling the goods of others;

(B) With respect to each delivery, the aggregate value of the goods is one thousand dollars or more at the time of delivery;

(C) The goods are not consumer goods immediately before delivery; and

(D) The transaction does not create a security interest that secures an obligation;

(21) "Consignor" means a person that delivers goods to a consignee in a consignment;

(22) "Consumer debtor" means a debtor in a consumer transaction;

(23) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes;

(24) "Consumer-goods transaction" means a consumer transaction in which:

(A) An individual incurs an obligation primarily for personal, family, or household purposes; and

(B) A security interest in consumer goods secures the obligation;

(25) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes;

(26) "Consumer transaction" means a transaction in which (i) an individual incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions;

(27) "Continuation statement" means an amendment of a financing statement which:

(A) Identifies, by its file number, the initial financing statement to which it relates; and

(B) Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement;

(28) "Debtor" means:

(A) A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(B) A seller of accounts, chattel paper, payment intangibles, or promissory notes; or

(C) A consignee;

(29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument;

(30) "Document" means a document of title or a receipt of the type described in section 400.7-201(2);

(31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium;

(32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property;

(33) "Equipment" means goods other than inventory, farm products, or consumer goods;

(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

(A) Crops grown, growing, or to be grown, including:

(i) Crops produced on trees, vines, and bushes; and

(ii) Aquatic goods produced in aquacultural operations;

(B) Livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(C) Supplies used or produced in a farming operation; or

(D) Products of crops or livestock in their unmanufactured states;

(35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation;

(36) "File number" means the number assigned to an initial financing statement pursuant to section 400.9-519(a);

(37) "Filing office" means an office designated in section 400.9-501 as the place to file a financing statement;

(38) "Filing-office rule" means a rule adopted pursuant to section 400.9-526;

(39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement;

(40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying section 400.9-502(a) and (b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures;

(41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law;

(42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software;

(43) "Good faith" means honesty in fact;

(44) "Goods" means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction;

(45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States;

(46) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided;

(47) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card;

(48) "Inventory" means goods, other than farm products, which:

(A) Are leased by a person as lessor;

(B) Are held by a person for sale or lease or to be furnished under a contract of service;

(C) Are furnished by a person under a contract of service; or

(D) Consist of raw materials, work in process, or materials used or consumed in a business;

(49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account;

(50) "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is organized;

(51) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit;

(52) "Lien creditor" means:

(A) A creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(B) An assignee for benefit of creditors from the time of assignment;

(C) A trustee in bankruptcy from the date of the filing of the petition; or

(D) A receiver in equity from the time of appointment;

(53) "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code;

(54) "Manufactured-home transaction" means a secured transaction:

(A) That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(B) In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral;

(55) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation;

(56) "New debtor" means a person that becomes bound as debtor under section 400.9-203(d) by a security agreement previously entered into by another person;

(57) "New value" means (i) money, (ii) money's worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation;

(58) "Noncash proceeds" means proceeds other than cash proceeds;

(59) ["Notice" means a properly filed financing statement;

(60)] "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit;

[(61)] **(60)** "Original debtor", **except as used in section 400.9-310(c)**, means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under section 400.9-203(d);

[(62)] **(61)** "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation;

[(63)] **(62)** "Person related to", with respect to an individual, means:

(A) The spouse of the individual;

(B) A brother, brother-in-law, sister, or sister-in-law of the individual;

(C) An ancestor or lineal descendant of the individual or the individual's spouse; or

(D) Any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual;

[(64)] **(63)** "Person related to", with respect to an organization, means:

(A) A person directly or indirectly controlling, controlled by, or under common control with the organization;

(B) An officer or director of, or a person performing similar functions with respect to, the organization;

(C) An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph (A);

(D) The spouse of an individual described in subparagraph (A), (B), or (C); or

(E) An individual who is related by blood or marriage to an individual described in subparagraph (A), (B), (C), or (D) and shares the same home with the individual;

[(65)] **(64)** "Proceeds", **except as used in section 400.9-609(b)**, means the following property:

(A) Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

(B) Whatever is collected on, or distributed on account of, collateral;

(C) Rights arising out of collateral;

(D) To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(E) To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral;

[(66)] **(65)** "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds;

[(67)] **(66)** "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to sections 400.9-620, 400.9-621 and 400.9-622;

[(68)] **(67)** "Pursuant to commitment", with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation;

[(69)] **(68)** "Record", except as used in "for record", "of record", "record or legal title", and "record owner", means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form;

[(70)] **(69)** "Registered organization" means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized;

[(71)] **(70)** "Secondary obligor" means an obligor to the extent that:

(A) The obligor's obligation is secondary; or

(B) The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either;

[(72)] **(71)** "Secured party" means:

(A) A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) A person that holds an agricultural lien;

(C) A consignor;

(D) A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) A person that holds a security interest arising under sections 400.2-401, 400.2-505, 400.2-711(3), 400.2A-508(5), 400.4-210 or 400.5-118;

[(73)] (72) "Security agreement" means an agreement that creates or provides for a security interest;

[(74)] (73) "Send", in connection with a record or notification, means:

(A) To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) To cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (A);

[(75)] (74) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods;

[(76)] (75) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

[(77)] (76) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property;

[(78)] (77) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium;

[(79)] (78) "Termination statement" means an amendment of a financing statement which:

(A) Identifies, by its file number, the initial financing statement to which it relates; and

(B) Indicates either that it is a termination statement or that the identified financing statement is no longer effective;

[(80)] (79) "Transmitting utility" means a person primarily engaged in the business of:

(A) Operating a railroad, subway, street railway, or trolley bus;

(B) Transmitting communications electrically, electromagnetically, or by light;

(C) Transmitting goods by pipeline or sewer; or

(D) Transmitting or producing and transmitting electricity, steam, gas, or water.

(b) The following definitions in other articles apply to this article:

"Applicant" Section 400.5-102.

"Beneficiary" Section 400.5-102.

"Broker" Section 400.8-102.

"Certificated security" Section 400.8-102.

"Check" Section 400.3-104.

"Clearing corporation" Section 400.8-102.

"Contract for sale" Section 400.2-106.

"Customer" Section 400.4-104.

"Entitlement holder" Section 400.8-102.

"Financial asset" Section 400.8-102.

"Holder in due course" Section 400.3-302.

"Issuer" (with respect to a letter of credit or letter-of-credit right) Section 400.5-102.

"Issuer" (with respect to a security) Section 400.8-201.

"Lease" Section 400.2A-103.

"Lease agreement" Section 400.2A-103.

"Lease contract" Section 400.2A-103.

"Leasehold interest" Section 400.2A-103.

"Lessee" Section 400.2A-103.

"Lessee in ordinary course of business"	Section 400.2A-103.
"Lessor"	Section 400.2A-103.
"Lessor's residual interest"	Section 400.2A-103.
"Letter of credit"	Section 400.5-102.
"Merchant"	Section 400.2-104.
"Negotiable instrument"	Section 400.3-104.
"Nominated person"	Section 400.5-102.
"Note"	Section 400.3-104.
"Proceeds of a letter of credit"	Section 400.5-114.
"Prove"	Section 400.3-103.
"Sale"	Section 400.2-106.
"Securities account"	Section 400.8-501.
"Securities intermediary"	Section 400.8-102.
"Security"	Section 400.8-102.
"Security certificate"	Section 400.8-102.
"Security entitlement"	Section 400.8-102.
"Uncertificated security"	Section 400.8-102.

(c) This section contains general definitions and principles of construction and interpretation applicable throughout sections 400.9-103 to 400.9-708.

400.9-109. SCOPE. — (a) Except as otherwise provided in subsections (c) and (d), this article applies to:

- (1) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;
- (2) An agricultural lien;
- (3) A sale of accounts, chattel paper, payment intangibles, or promissory notes;
- (4) A consignment;
- (5) A security interest arising under section 400.2-401, 400.2-505, 400.2-711(3) or 400.2A-508(5), as provided in section 400.9-110; and

- (6) A security interest arising under section 400.4-210 or 400.5-118.

(b) The application of this article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this article does not apply.

(c) This article does not apply to the extent that:

- (1) A statute, regulation, or treaty of the United States preempts this article;

(2) Another statute of this state expressly governs the creation, perfection, priority, or enforcement of a security interest created by this state or a governmental unit of this state;

~~[(2)]~~ **(3)** A statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or

~~[(3)]~~ **(4)** The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under section 400.5-114.

(d) This article does not apply to:

- (1) A landlord's lien, other than an agricultural lien;
- (2) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but section 400.9-333 applies with respect to priority of the lien;
- (3) An assignment of a claim for wages, salary, or other compensation of an employee;
- (4) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;

(5) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;

(6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

(7) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(8) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but sections 400.9-315 and 400.9-322 apply with respect to proceeds and priorities in proceeds;

(9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(10) A right of recoupment or set-off, but:

(A) Section 400.9-340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

(B) Section 400.9-404 applies with respect to defenses or claims of an account debtor;

(11) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

(A) Liens on real property in sections 400.9-203 and 400.9-308;

(B) Fixtures in section 400.9-334;

(C) Fixture filings in sections 400.9-501, 400.9-502, 400.9-512, 400.9-516 and 400.9-519; and

(D) Security agreements covering personal and real property in section 400.9-604;

(12) An assignment of a claim arising in tort, other than a commercial tort claim, but sections 400.9-315 and 400.9-322 apply with respect to proceeds and priorities in proceeds; or

(13) An assignment of a deposit account in a consumer transaction, but sections 400.9-315 and 400.9-322 apply with respect to proceeds and priorities in proceeds; or

(14) An assignment of a claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. Section 104(a)(1) or (2), as amended from time to time; or

(15) An assignment of a claim or right to receive benefits under a special needs trust as described in 42 U.S.C. Section 1396p(d)(4), as amended from time to time; or

(16) A transfer by a government or governmental subdivision or agency.

400.9-303. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN GOODS COVERED BY CERTIFICATE OF TITLE. — (a) This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

(b) Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

(c) The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in goods covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title.

(d) When a notice of lien is filed in accordance with chapter 301 or 306, RSMo, then the lien is perfected and this chapter shall not govern perfection or nonperfection or the priority of the lien even though a valid application for a certificate of title and the applicable fee was not delivered to the appropriate authority or the certificate of title was not issued by such authority.

(e) Article 9 of this chapter shall not apply to liens on manufactured homes perfected in accordance with sections 700.350 to 700.390, RSMo, and the perfection or

nonperfection, the priority and termination of the lien shall be governed by those sections, except liens or encumbrances on manufactured homes perfected pursuant to article 9 of this chapter, after June 30, 2001, and before August 28, 2002, and the perfection or nonperfection, the priority, termination, rights, duties, and interests flowing from them are and shall remain valid and may be terminated, completed, consummated, or enforced as required or permitted by article 9 of this chapter, provided such liens on such manufactured homes are not perfected in accordance with sections 700.350 to 700.390, RSMo, however when conflicting lienholders file liens on the same manufactured home, the lien filed under sections 700.350 to 700.390, RSMo, shall have priority over the lien filed under article 9 of this chapter, for the time period after June 30, 2001, and before August 28, 2002.

400.9-317. INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF SECURITY INTEREST OR AGRICULTURAL LIEN. — (a) [An unperfected] A security interest or agricultural lien is subordinate to the rights of:

(1) A person entitled to priority under section 400.9-322; and
(2) **Except as otherwise provided in subsection (e)**, a person that becomes a lien creditor before the earlier of the time:

(A) The security interest or agricultural lien is perfected; or

(B) **One of the conditions specified in section 400.9-203(b)(3) is met and** a financing statement covering the collateral is filed.

(b) Except as otherwise provided in subsection (e), a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Except as otherwise provided in subsection (e), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Except as otherwise provided in sections 400.9-320 and 400.9-321, if a person files a financing statement with respect to a purchase-money security interest before or within twenty days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

400.9-323. FUTURE ADVANCES. — (a) Except as otherwise provided in subsection (c), for purposes of determining the priority of a perfected security interest under section 400.9-322(a)(1), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(1) Is made while the security interest is perfected only:

(A) Under section 400.9-309 when it attaches; or

(B) Temporarily under section 400.9-312(e), (f), or (g); and

(2) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under section 400.9-309 or 400.9-312(e), (f), or (g).

(b) Except as otherwise provided in subsection (c), a security interest is subordinate to the rights of a person that becomes a lien creditor [while the security interest is perfected only] to the extent that [it] **the security interest** secures [advances] **an advance** made more than forty-five days after the person becomes a lien creditor unless the advance is made:

(1) Without knowledge of the lien; or

- (2) Pursuant to a commitment entered into without knowledge of the lien.
- (c) Subsections (a) and (b) do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.
- (d) Except as otherwise provided in subsection (e), a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:
 - (1) The time the secured party acquires knowledge of the buyer's purchase; or
 - (2) Forty-five days after the purchase.
- (e) Subsection (d) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the forty-five-day period.
- (f) Except as otherwise provided in subsection (g), a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:
 - (1) The time the secured party acquires knowledge of the lease; or
 - (2) Forty-five days after the lease contract becomes enforceable.
- (g) Subsection (f) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five-day period.

400.9-406. DISCHARGE OF ACCOUNT DEBTOR — NOTIFICATION OF ASSIGNMENT — IDENTIFICATION AND PROOF OF ASSIGNMENT — RESTRICTIONS ON ASSIGNMENT OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES AND PROMISSORY NOTES INEFFECTIVE. — (a) Subject to subsections (b) through (i), an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

- (b) Subject to subsection (h), notification is ineffective under subsection (a):
 - (1) If it does not reasonably identify the rights assigned;
 - (2) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or
 - (3) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:
 - (A) Only a portion of the account, chattel paper, or general intangible has been assigned to that assignee;
 - (B) A portion has been assigned to another assignee; or
 - (C) The account debtor knows that the assignment to that assignee is limited.
- (c) Subject to subsection (h), if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a).
- (d) Except as otherwise provided in subsection (e) and sections 400.2A-303 and 400.9-407, and subject to subsection (h), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:
 - (1) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or
 - (2) Provides that the **assignment or transfer or the** creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim,

defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(e) Subsection (d) does not apply to the sale of a payment intangible or promissory note.

(f) Except as otherwise provided in sections 400.2A-303 and 400.9-407, and subject to subsections (h) and (i), a rule of law, statute, or regulation, that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(1) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account or chattel paper; or

(2) Provides that the **assignment or transfer or the** creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(g) Subject to subsection (h), an account debtor may not waive or vary its option under subsection (b)(3).

(h) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(i) This section does not apply to an assignment of a health-care-insurance receivable.

(j) This section prevails over any inconsistent provisions of any statutes, rules, and regulations.

400.9-407. RESTRICTIONS ON CREATION OR ENFORCEMENT OF SECURITY INTEREST IN LEASEHOLD INTEREST OR IN LESSOR'S RESIDUAL INTEREST. — (a) Except as otherwise provided in subsection (b), a term in a lease agreement is ineffective to the extent that it:

(1) Prohibits, restricts, or requires the consent of a party to the lease to the **assignment or transfer of, or the** creation, attachment, perfection, or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods; or

(2) Provides that the **assignment or transfer or the** creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.

(b) Except as otherwise provided in section 400.2A-303(7), a term described in subsection (a)(2) is effective to the extent that there is:

(1) A transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or

(2) A delegation of a material performance of either party to the lease contract in violation of the term.

(c) The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of section 400.2A-303(4) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor. [Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective.]

400.9-408. RESTRICTIONS ON ASSIGNMENT OF PROMISSORY NOTES, HEALTH CARE INSURANCE RECEIVABLES, AND CERTAIN GENERAL INTANGIBLES INEFFECTIVE. — (a) Except as otherwise provided in subsection (b), a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account

debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(1) Would impair the creation, attachment, or perfection of a security interest; or
(2) Provides that the **assignment or transfer or the** creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) Subsection (a) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

(c) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(1) Would impair the creation, attachment, or perfection of a security interest; or
(2) Provides that the **assignment or transfer or the** creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(d) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (c) would be effective under law other than this article but is ineffective under subsection (a) or (c), the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(1) Is not enforceable against the person obligated on the promissory note or the account debtor;

(2) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(3) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(4) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(5) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(6) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(e) This section prevails over any inconsistent provisions of any statutes, rules, and regulations.

400.9-409. RESTRICTIONS ON ASSIGNMENT OF LETTER-OF-CREDIT RIGHTS INEFFECTIVE. — (a) A term in a letter of credit or a rule of law, statute, regulation, custom, or practice applicable to the letter of credit which prohibits, restricts, or requires the consent of an applicant, issuer, or nominated person to a beneficiary's assignment of or creation of a security interest in a letter-of-credit right is ineffective to the extent that the term or rule of law, statute, regulation, custom, or practice:

(1) Would impair the creation, attachment, or perfection of a security interest in the letter-of-credit right; or

(2) Provides that the **assignment or the** creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter-of-credit right.

(b) To the extent that a term in a letter of credit is ineffective under subsection (a) but would be effective under law other than this article or a custom or practice applicable to the letter of credit, to the transfer of a right to draw or otherwise demand performance under the letter of credit, or to the assignment of a right to proceeds of the letter of credit, the creation, attachment, or perfection of a security interest in the letter-of-credit right:

(1) Is not enforceable against the applicant, issuer, nominated person, or transferee beneficiary;

(2) Imposes no duties or obligations on the applicant, issuer, nominated person, or transferee beneficiary; and

(3) Does not require the applicant, issuer, nominated person, or transferee beneficiary to recognize the security interest, pay or render performance to the secured party, or accept payment or other performance from the secured party.

400.9-504. INDICATION OF COLLATERAL. — A financing statement sufficiently indicates the collateral that it covers [only] if the financing statement provides:

(1) A description of the collateral pursuant to section 400.9-108; or

(2) An indication that the financing statement covers all assets or all personal property.

400.9-509. PERSONS ENTITLED TO FILE A RECORD. — (a) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(1) The debtor authorizes the filing in an authenticated record **or pursuant to subsection (b) or (c);** or

(2) The person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(b) By authenticating or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(1) The collateral described in the security agreement; and

(2) Property that becomes collateral under section 400.9-315(a)(2), whether or not the security agreement expressly covers proceeds.

(c) By acquiring collateral in which a security interest or agricultural lien continues under section 400.9-315(a)(1), a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under section 400.9-315(a)(2).

[(c)] **(d)** A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(1) The secured party of record authorizes the filing; or

(2) The amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by section 400.9-513(a) or (c), the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

[(d)] **(e)** If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection [(c)] **(d)**.

400.9-513. TERMINATION STATEMENT. — (a) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(1) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) The debtor did not authorize the filing of the initial financing statement.

(b) To comply with subsection (a), a secured party shall cause the secured party of record to file the termination statement:

(1) Within one month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) If earlier, within twenty days after the secured party receives an authenticated demand from a debtor.

(c) In cases not governed by subsection (a), within twenty days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(1) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(2) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(3) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(4) The debtor did not authorize the filing of the initial financing statement.

(d) Except as otherwise provided in section 400.9-510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in section 400.9-510, for purposes of sections 400.9-519(g), 400.9-522(a), and 400.9-523(c), [upon] the filing **with the filing office** of a termination statement [with the filing office, a financing statement indicating that the debtor is a transmitting utility to which the termination statement relates ceases to be effective] **relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.**

400.9-525. FEES. — (a) Except as otherwise provided in subsection (e), the fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in section 400.9-502(c), is [the amount specified in subsection (c), if applicable, plus]:

(1) If the filing office is the secretary of state's office, then twelve dollars for the first page and one dollar for each subsequent page if the record is communicated in writing or by another medium authorized by filing-office rule, of which fee seven dollars is received and collected by the secretary of state on behalf of the [county employees' retirement fund established pursuant to section 50.1010, RSMo, provided, however, that in any charter county or city not within a county whose employees are not members of the county employees' retirement fund, the fee collected for the county employees' retirement fund established pursuant to section 50.1010, RSMo, shall go to the general revenue fund of that charter county or city not within a county] **counties of this state for deposit in the uniform commercial code transition fee trust fund;**
or

(2) If the filing office is other than the secretary of state's office, then the fee otherwise allowed by law.

(b) Except as otherwise provided in subsection (e), the fee for filing and indexing an initial financing statement of the kind described in section 400.9-502(c) is [the amount specified in subsection (c), if applicable, plus]:

(1) If the filing office is the secretary of state's office, then twelve dollars for the first page and one dollar for each subsequent page if the record is communicated in writing or by another medium authorized by filing-office rule, of which fee seven dollars is received and collected by the secretary of state on behalf of the [county employees' retirement fund established pursuant to section 50.1010, RSMo, provided, however, that in any charter county or city not within a county whose employees are not members of the county employees' retirement fund, the fee collected for the county employees' retirement fund established pursuant to section 50.1010, RSMo, shall go to the general revenue fund of that charter county or city not within a county] **counties of this state for deposit in the uniform commercial code transition fee fund; or**

(2) If the filing office is other than the secretary of state's office, then the fee otherwise allowed by law.

(c) The number of names required to be indexed does not affect the amount of the fee in subsections (a) and (b).

(d) The fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor, is:

(1) If the filing office is the secretary of state's office, then twenty-two dollars for the first page and one dollar for each subsequent page if the record is communicated in writing or by another medium authorized by filing-office rule, of which fee seven dollars is received and collected by the secretary of state on behalf of the [county employees' retirement fund established pursuant to section 50.1010, RSMo, provided, however, that in any charter county or city not within a county whose employees are not members of the county employees' retirement fund, the fee collected for the county employees' retirement fund established pursuant to section 50.1010, RSMo, shall go to the general revenue fund of that charter county or city not within a county] **counties of this state for deposit in the uniform commercial code transition fee trust fund; or**

(2) If the filing office is other than the secretary of state's office, then the fee otherwise allowed by law.

(e) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under section 400.9-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

(f) The [secretary of state] **department of revenue** shall administer a special trust fund, which is hereby established, to be known as the "Uniform Commercial Code Transition Fee Trust Fund", and which shall be funded by seven dollars of each of the fees received and collected pursuant to subdivisions (a), (b) and [(c)] **(d)** of this section on behalf of the [county employees' retirement fund established pursuant to section 50.1010, RSMo, or the general revenue fund of any charter county or city not within a county whose employees are not members of the county employees' retirement fund] **counties of this state for deposit in the uniform commercial code transition fee trust fund.**

(1) The secretary of state shall keep **and provide to the department of revenue and the county employee's retirement fund** accurate record of the moneys **to be deposited** in the uniform commercial code transition fee trust fund allocated to each county and city not within a county on the basis of where such record, financing statement or other document would have been filed prior to July 1, 2001, and **the department of revenue** shall distribute the moneys pursuant to subdivision (2) of this subsection on that basis.

(2) The moneys in the uniform commercial code transition fee trust fund shall be distributed to the county employees' retirement fund established pursuant to section 50.1010, RSMo, or the general revenue fund of any charter county or city not within a county whose employees are not members of the county employees' retirement fund

(3) The moneys in the uniform commercial code transition fee trust fund shall [not] be deemed to be [state] **nonstate funds, as defined in article IV, section 15 of the Constitution of Missouri, to be administered by the department of revenue**, provided, however that interest, if any, earned by the money in the trust fund shall be deposited into the general revenue fund in the state treasury.

400.9-602. WAIVER OF VARIANCE OF RIGHTS AND DUTIES. — Except as otherwise provided in section 400.9-624, to the extent that they give rights to a debtor or obligor and impose duties on a secured party, [a secured party may not require] the debtor or obligor [to] **may not** waive or vary the rules stated in the following listed sections:

(1) Section 400.9-207(b)(4)(C), which deals with use and operation of the collateral by the secured party;

(2) Section 400.9-210, which deals with requests for an accounting and requests concerning a list of collateral and statement of account;

(3) Section 400.9-607(c), which deals with collection and enforcement of collateral;

(4) Sections 400.9-608(a) and 400.9-615(c) to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition;

(5) Sections 400.9-608(a) and 400.9-615(d) to the extent that they require accounting for or payment of surplus proceeds of collateral;

(6) Section 400.9-609 to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace;

(7) Sections 400.9-610(b), 400.9-611, 400.9-613 and 400.9-614, which deal with disposition of collateral;

(8) Section 400.9-615(f), which deals with calculation of a deficiency or surplus when a disposition is made to the secured party, a person related to the secured party, or a secondary obligor;

[8] **(9)** Section 400.9-616, which deals with explanation of the calculation of a surplus or deficiency;

[9] **(10)** Sections 400.9-620, 400.9-621 and 400.9-622, which deal with acceptance of collateral in satisfaction of obligation;

[10] **(11)** Section 400.9-623, which deals with redemption of collateral;

[11] **(12)** Section 400.9-624, which deals with permissible waivers; and

[12] **(13)** Sections 400.9-625 and 400.9-626, which deal with the secured party's liability for failure to comply with this article.

400.9-608. APPLICATION OF PROCEEDS OF COLLECTION OR ENFORCEMENT — LIABILITY FOR DEFICIENCY AND RIGHT TO SURPLUS. — (a) If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(1) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under [this] section **400.9-607** in the following order to:

(A) The reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(B) The satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

(C) The satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives an authenticated demand for proceeds before distribution of the proceeds is completed;

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under paragraph (1)(C);

(3) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under [this] section **400.9-607** unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner;

(4) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(b) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

400.9-611. NOTIFICATION BEFORE DISPOSITION OF COLLATERAL. — (a) In this section, "notification date" means the earlier of the date on which:

(1) A secured party sends to the debtor and any secondary obligor an authenticated notification of disposition; or

(2) The debtor and any secondary obligor waive the right to notification.

(b) Except as otherwise provided in subsection (d), a secured party that disposes of collateral under section 400.9-610 shall send to the persons specified in subsection (c) a reasonable authenticated notification of disposition.

(c) To comply with subsection (b), the secured party shall send an authenticated notification of disposition to:

(1) The debtor;

(2) Any secondary obligor; and

(3) If the collateral is other than consumer goods:

(A) Any other person from which the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral;

(B) Any other secured party or lienholder that, ten days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(i) Identified the collateral;

(ii) Was indexed under the debtor's name as of that date; and

(iii) Was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

(C) Any other secured party that, ten days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in section 400.9-311(a).

(d) Subsection (b) does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(e) A secured party complies with the requirement for notification prescribed by subsection (c)(3)(B) if:

(1) Not later than twenty days or earlier than thirty days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subsection (c)(3)(B); and

(2) Before the notification date, the secured party:

(A) Did not receive a response to the request for information; or

(B) Received a response to the request for information and sent an authenticated notification of disposition to each secured party **or other lienholder** named in that response whose financing statement covered the collateral.

400.9-613. CONTENTS AND FORM OF NOTIFICATION BEFORE DISPOSITION OF COLLATERAL: GENERAL. — Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

(A) Describes the debtor and the secured party;

- (B) Describes the collateral that is the subject of the intended disposition;
- (C) States the method of intended disposition;
- (D) States that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and
- (E) States the time and place of a public [sale] **disposition** or the time after which any other disposition is to be made;
- (2) Whether the contents of a notification that lacks any of the information specified in paragraph (1) are nevertheless sufficient is a question of fact;
- (3) The contents of a notification providing substantially the information specified in paragraph (1) are sufficient, even if the notification includes:
 - (A) Information not specified by that paragraph; or
 - (B) Minor errors that are not seriously misleading;
- (4) A particular phrasing of the notification is not required;
- (5) The following form of notification and the form appearing in section 400.9-614(3), when completed, each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

To: (Name of debtor, obligor, or other person to which the notification is sent)

From: (Name, address, and telephone number of secured party)

Name of Debtor(s): (Include only if debtor(s) are not an addressee)

(For a public disposition:)

We will sell (or lease or license, as applicable) the (describe collateral) (to the highest qualified bidder) in public as follows:

Day and Date: _____

Time: _____

Place: _____

(For a private disposition:)

We will sell (or lease or license, as applicable) the (describe collateral) privately sometime after (day and date).

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell (or lease or license, as applicable) (for a charge of \$ ____). You may request an accounting by calling us at (telephone number)

(End of Form)

400.9-615. APPLICATION OF PROCEEDS OF DISPOSITION — LIABILITY FOR DEFICIENCY AND RIGHT TO SURPLUS. — (a) A secured party shall apply or pay over for application the cash proceeds of disposition **under section 400.9-610** in the following order to:

- (1) The reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;
- (2) The satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;
- (3) The satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:
 - (A) The secured party receives from the holder of the subordinate security interest or other lien an authenticated demand for proceeds before distribution of the proceeds is completed; and
 - (B) In a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and
- (4) A secured party that is a consignor of the collateral if the secured party receives from the consignor an authenticated demand for proceeds before distribution of the proceeds is completed.

(b) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under subsection (a)(3).

(c) A secured party need not apply or pay over for application noncash proceeds of disposition under [this] section **400.9-610** unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (a) and permitted by subsection (c):

(1) Unless subsection (a)(4) requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

(2) The obligor is liable for any deficiency.

(e) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

(1) The debtor is not entitled to any surplus; and

(2) The obligor is not liable for any deficiency.

(f) The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

(1) The transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and

(2) The amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(g) A secured party that receives cash proceeds of a disposition in good faith and without notice that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest under which the disposition is made:

(1) Takes the cash proceeds free of the security interest or other lien;

(2) Is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

(3) Is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

400.9-625. REMEDIES FOR SECURED PARTY'S FAILURE TO COMPLY WITH ARTICLE. —

(a) If it is established that a secured party is not proceeding in accordance with this article, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.

(b) Subject to subsections (c), (d), and (f), a person is liable for damages in the amount of any loss caused by a failure to comply with this article. Loss caused by a failure to comply [with a request under section 400.9-210] may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(c) Except as otherwise provided in section 400.9-628:

(1) A person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (b) for its loss; and

(2) If the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this part may recover for that failure in any event an amount not less than the credit service charge plus ten percent of the principal amount of the obligation or the time-price differential plus ten percent of the cash price.

(d) A debtor whose deficiency is eliminated under section 400.9-626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is

eliminated or reduced under section 400.9-626 may not otherwise recover under subsection (b) for noncompliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(e) In addition to any damages recoverable under subsection (b), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover five hundred dollars in each case from a person that:

- (1) Fails to comply with section 400.9-208;
- (2) Fails to comply with section 400.9-209;
- (3) Files a record that the person is not entitled to file under section 400.9-509(a);
- (4) Fails to cause the secured party of record to file or send a termination statement as required by section 400.9-513(a) or (c);
- (5) Fails to comply with section 400.9-616(b)(1) and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or
- (6) Fails to comply with section 400.9-616(b)(2).

(f) A debtor or consumer obligor may recover damages under subsection (b) and, in addition, five hundred dollars in each case from a person that, without reasonable cause, fails to comply with a request under section 400.9-210. A recipient of a request under section 400.9-210 which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(g) If a secured party fails to comply with a request regarding a list of collateral or a statement of account under section 400.9-210, the secured party may claim a security interest only as shown in the **list or** statement included in the request as against a person that is reasonably misled by the failure.

(h) This section shall apply on and after January 1, 2003.

400.9-710. LOCAL FILING OFFICE TO MAINTAIN FORMER ARTICLE 9 RECORDS. — (a)

In this section:

(1) "Former article 9 records" means:

a. Financing statements and other records that have been filed in the local-filing office before July 1, 2001, and that are, or upon processing and indexing will be, reflected in the index maintained, as of July 1, 2001, by the local-filing office for financing statements and other records filed in the local-filing office before July 1, 2001; and

b. The index as of July 1, 2001.

The term does not include records presented to a local-filing office for filing after July 1, 2001, whether or not the records relate to financing statements filed in the local-filing office before July 1, 2001.

(2) "Local-filing office" means a filing office, other than the office of the secretary of state, that is designated as the proper place to file a financing statement under 400.9-401 of former article 9. The term applies only with respect to a record that covers a type of collateral as to which the filing office is designated in that section as the proper place to file.

(b) Except for a record terminating a former article 9 record, a local filing office shall not accept a record presented after June 30, 2001, whether or not the record relates to a financing statement filed in the local filing office before July 1, 2001. If the record terminating such former article 9 record is in the standard form prescribed by the secretary of state, the uniform fee for filing and indexing the termination statement in the office of a county recorder shall be the same fee as set out in the former article 9 before the effective date of this act.

[(b)] (c) Until June 30, **[2006] 2008**, each local-filing office must maintain all former article 9 records in accordance with former article 9. A former article 9 record that is not reflected on the index maintained on July 1, 2001, by the local-filing office must be processed and indexed,

and reflected on the index as of July 1, 2001, as soon as practicable but in any event no later than thirty days after July 1, 2001.

[(c)] (d) Until at least June 30, 2008, each local-filing office must respond to requests for information with respect to former article 9 records relating to a debtor and issue certificates, in accordance with former article 9. The fees charged for responding to requests for information relating to a debtor and issuing certificates with respect to former article 9 records must be the fees in effect under former article 9 on July 1, 2001.

[(d)] (e) After June 30, [2006] 2008, each local-filing office may remove and destroy, in accordance with any then applicable record retention law of this state, all former article 9 records, including the related index.

[(e)] (f) This section does not apply, with respect to financing statements and other records, to a filing office in which mortgages or records of mortgages on real property are required to be filed or recorded, if:

- (1) The collateral is timber to be cut or as-extracted collateral; or
- (2) The record is or relates to a financing statement filed as a fixture and the collateral is goods that are or are to become fixtures.

407.432. DEFINITIONS. — As used in sections 407.430 to 407.436, the following terms shall mean:

(1) "Acquirer", a business organization, financial institution, or an agent of a business organization or financial institution that authorizes a merchant to accept payment by credit card for merchandise;

(2) "Cardholder", the person's name on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer, or any agent **authorized signatory** or employee of such person;

(3) "Counterfeit credit card", any credit card which is fictitious, altered, or forged, any false representation, depiction, facsimile or component of a credit card, or any credit card which is stolen, obtained as part of a scheme to defraud, or otherwise unlawfully obtained, and which may or may not be embossed with account information or a company logo;

(4) "Credit card" or "**debit card**", any instrument or device, whether known as a credit card, credit plate, bank service card, banking card, check guarantee card, or debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money or merchandise on credit, or for use in an automated banking device to obtain any of the services offered through the device. The presentation of a credit card account number is deemed to be the presentation of a credit card;

(5) "Expired credit card", a credit card for which the expiration date shown on it has passed;

(6) "Issuer", the business organization or financial institution or its duly authorized agent, which issues a credit card;

(7) "Merchandise", any objects, wares, goods, commodities, intangibles, real estate, services, or anything else of value;

(8) "**Merchant**", **an owner or operator of any retail mercantile establishment, or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such owner or operator. A merchant includes a person who receives from an authorized user of a payment card, or an individual the person believes to be an authorized user, a payment card or information from a payment card as the instrument for obtaining, purchasing, or receiving goods, services, money, or anything of value from the person;**

(9) "Person", any natural person or his legal representative, partnership, firm, for-profit or not-for-profit corporation, whether domestic or foreign, company, foundation, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestui que trust thereof;

[9)] (10) "Reencoder", an electronic device that places encoded information from the magnetic strip or stripe of a credit or debit card onto the magnetic strip or stripe of a different credit or debit card;

(11) "Revoked credit card", a credit card for which permission to use it has been suspended or terminated by the issuer;

(12) "Scanning device", a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a credit or debit card.

407.433. PROTECTION OF CREDIT CARD AND DEBIT CARD ACCOUNT NUMBERS, PROHIBITED ACTIONS, PENALTY, EXCEPTIONS—EFFECTIVE DATE, APPLICABILITY. — 1. No person, other than the cardholder, shall:

(1) Disclose more than the last five digits of a credit card or debit card account number on any sales receipt for merchandise sold in this state;

(2) Use a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a credit or debit card without the permission of the cardholder and with the intent to defraud any person, the issuer, or a merchant; or

(3) Use a reencoder to place information encoded on the magnetic strip or stripe of a credit or debit card onto the magnetic strip or stripe of a different card without the permission of the cardholder from which the information is being reencoded and with the intent to defraud any person, the issuer, or a merchant.

2. Any person who knowingly violates this section is guilty of an infraction and any second or subsequent violation of this section is a class A misdemeanor.

3. It shall not be a violation of subdivision (1) of subsection 1 of this section if:

(1) The sole means of recording the credit card number or debit card number is by handwriting or, prior to January 1, 2005, by an imprint of the credit card or debit card; and

(2) For handwritten or imprinted copies of credit card or debit card receipts, only the merchant's copy of the receipt lists more than the last five digits of the account number.

4. This section shall become effective on January 1, 2003, and applies to any cash register or other machine or device that prints or imprints receipts of credit card or debit card transactions and which is placed into service on or after January 1, 2003. Any cash register or other machine or device that prints or imprints receipts on credit card or debit card transactions and which is placed in service prior to January 1, 2003, shall be subject to the provisions of this section on or after January 1, 2005.

408.083. CREDIT CONTRACTS, PREPAYMENT BEFORE MATURITY, COMPUTATION OF INTEREST. — Notwithstanding any other provision of law to the contrary, all credit contracts with interest or time price differential calculated on an add-on basis entered into after August [13, 1988, with an initial term greater than sixty-one months] **28, 2002**, the proceeds of which are used for personal, family or household purposes, shall provide that the amount of interest or time price differential earned upon prepayment in full will be computed on the basis of the rate or rate formula originally contracted for on the actual unpaid principal balances for the time actually outstanding.

408.140. ADDITIONAL CHARGES OR FEES PROHIBITED, EXCEPTIONS — NO FINANCE CHARGES IF PURCHASES ARE PAID FOR WITHIN CERTAIN TIME LIMIT, EXCEPTION. — 1. No further or other charge or amount whatsoever shall be directly or indirectly charged, contracted for or received for interest, service charges or other fees as an incident to any such extension of credit except as provided and regulated by sections 367.100 to 367.200, RSMo, and except:

(1) On loans for thirty days or longer which are other than "open-end credit" as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, a fee, not to exceed five percent of the principal amount loaned not to exceed [fifty] **seventy-five** dollars may be charged by the lender; however, no such fee shall be permitted on any extension, refinance, restructure or renewal of any such loan, unless any investigation is made on the application to extend, refinance, restructure or renew the loan;

(2) The lawful fees actually and necessarily paid out by the lender to any public officer for filing, recording, or releasing in any public office any instrument securing the loan, which fees may be collected when the loan is made or at any time thereafter; however, premiums for insurance in lieu of perfecting a security interest required by the lender may be charged if the premium does not exceed the fees which would otherwise be payable;

(3) If the contract so provides, a charge for late payment on each installment or minimum payment in default for a period of not less than fifteen days in an amount not to exceed five percent of each installment due or the minimum payment due or twenty-five dollars, whichever is less; except that, a minimum charge of ten dollars may be made. If the contract so provides, a charge for late payment on each twenty-five dollars or less installment in default for a period of not less than fifteen days shall not exceed five dollars;

(4) If the contract so provides, a charge for late payment for a single payment note in default for a period of not less than fifteen days in an amount not to exceed five percent of the payment due; provided that, the late charge for a single payment note shall not exceed fifty dollars;

(5) Charges or premiums for insurance written in connection with any loan against loss of or damage to property or against liability arising out of ownership or use of property as provided in section 367.170, RSMo; however, notwithstanding any other provision of law, with the consent of the borrower, such insurance may cover property all or part of which is pledged as security for the loan, and charges or premiums for insurance providing life, health, accident, or involuntary unemployment coverage;

(6) Charges assessed by any institution for processing a refused instrument plus a handling fee of not more than fifteen dollars;

(7) If the contract or promissory note, signed by the borrower, provides for attorney fees, and if it is necessary to bring suit, such attorney fees may not exceed fifteen percent of the amount due and payable under such contract or promissory note, together with any court costs assessed. The attorney fees shall only be applicable where the contract or promissory note is referred for collection to an attorney, and is not handled by a salaried employee of the holder of the contract;

(8) Provided the debtor agrees in writing, the lender may collect a fee in advance for allowing the debtor to defer up to three monthly loan payments, so long as the fee is no more than the lesser of fifty dollars or ten percent of the loan payments deferred, no extensions are made until the first loan payment is collected and no more than one deferral in a twelve-month period is agreed to and collected on any one loan[.]; this [section] **subdivision** applies to nonprecomputed loans only and does not affect any other [sections] **subdivision**[.];

(9) If the open-end credit contract is tied to a transaction account in a depository institution, such account is in the institution's assets and such contract provides for loans of thirty-one days or longer which are "open-end credit", as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, the creditor may charge a credit advance fee of the lesser of twenty-five dollars or five percent of the credit advanced from time to time from the line of credit; such credit advance fee may be added to the open-end credit outstanding along with any interest, and shall not be considered the unlawful compounding of interest as that term is defined in section 408.120.

2. Other provisions of law to the contrary notwithstanding, an open-end credit contract under which a credit card is issued by a company, financial institution, savings and loan or other credit issuing company whose credit card operations are located in Missouri may charge an

annual fee, provided that no finance charge shall be assessed on new purchases other than cash advances if such purchases are paid for within twenty-five days of the date of the periodic statement therefor.

3. Notwithstanding any other provision of law to the contrary, in addition to charges allowed pursuant to section 408.100, an open-end credit contract provided by a company, financial institution, savings and loan or other credit issuing company which is regulated pursuant to this chapter may charge an annual fee not to exceed fifty dollars.

408.170. CONTRACTS PAID IN FULL BEFORE DUE DATE — RECOMPUTATIONS OF INTEREST—REFUND DEFINED. — 1. If a note or loan contract providing for amount of interest, added to the principal of the loan is prepaid in full (by cash, renewal, or refinancing) one month or more before the final installment date, the lender shall either:

(1) Recompute the amount of interest earned to the date of prepayment in full on the basis of the rate of interest originally contracted for computed on the actual unpaid principal balances for the time actually outstanding; or

(2) If the initial term of the contract is sixty-one months or less **and it is a contract for five thousand dollars or less**, give a refund of a portion of the amount of interest originally contracted for which shall be computed as follows: The amount of the refund shall be at least as great a proportion of such amount of interest as the sum of the full monthly balances of the contract scheduled to follow the installment date after the date of prepayment in full bears to the sum of all the monthly balances of the contract, both sums to be determined according to the payment schedule provided by the contract; except that, if prepayment in full occurs during the first installment period, interest shall be recomputed and charged only for the actual number of days elapsed. When the period before the first installment is more or less than one month, the portion of the interest earned for such period shall be determined by counting each day in such period as one-thirtieth of a month and one three hundred and sixtieth of a year.

2. No refund shall be required for any partial prepayment.

3. **For a contract for more than five thousand dollars**, the word "refund" as used herein shall mean a credit or deduction from the amount of interest originally contracted for **at any time by cash, renewal or refinancing, the buyer shall receive a refund which shall be calculated by the actuarial method. The lender shall retain no more interest than is actually earned whenever a note or loan contract is prepaid.**

408.320. BUYER MAY PAY RETAIL TIME CONTRACT DEBT BEFORE MATURITY — REFUND OF CHARGES. — Notwithstanding the provisions of any retail time contract to the contrary, any buyer may prepay in full at any time before maturity the debt of any retail time contract and on so paying such debt shall receive a refund credit thereof for such anticipation of payments. The amount of such refund shall [represent at least as great a proportion of the time charge as the sum of the monthly time balances, beginning one month after prepayment is made, bears to the sum of all the monthly time balances under the schedule of payments in the contract after deducting from such refund an acquisition cost of twelve dollars; except that, if the initial term of the contract is greater than sixty-one months, the amount of time charge earned shall be computed to the date of prepayment on the basis of the rate originally contracted for computed on the actual unpaid time balances for the time actually outstanding. Any insurance obviated by reason of prepayment shall be canceled by the holder and any refund of premiums received by the holder shall be treated in accordance with the provisions of subsection 5 of section 408.280. Where the amount of credit is less than one dollar no refund need be made] **be calculated by the actuarial method. The lender shall retain no more interest than is actually earned whenever a retail time contract is prepaid.**

408.510. LICENSURE OF CONSUMER INSTALLMENT LENDERS — INTEREST AND FEES ALLOWED. — Notwithstanding any other law to the contrary, the phrase "consumer installment

loans" means secured or unsecured loans of any amount and payable in not less than four substantially equal installments over a period of not less than one hundred twenty days. The phrase "consumer installment lender" means a person licensed to make consumer installment loans. A consumer installment lender shall be licensed in the same manner and upon the same terms as a lender making consumer credit loans. Such consumer installment lenders shall contract for and receive interest and fees in accordance with sections 408.100 [and], 408.140, and 408.170. Consumer installment lenders shall be subject to the provisions of sections 408.551 to 408.562.

408.556. ACTIONS ARISING FROM DEFAULT, CONTENTS OF PETITION — DEFAULT JUDGMENT REQUIRES SWORN TESTIMONY — RECOVERY OF UNPAID BALANCES. — 1. In any action brought by a lender against a borrower arising from default, the petition shall allege the facts of the borrower's default, facts sufficient to show compliance with the provisions of sections [400.9-501 to 400.9-507] **400.9-601 to 400.9-629**, RSMo, which provisions are hereby deemed applicable to all credit transactions, with respect to any sale or other disposition of collateral for the credit transaction, the amount to which the lender is entitled, and an indication of how that amount was determined.

2. A default judgment may not be entered in the action in favor of the lender unless the petition is verified by the lender, or sworn testimony, by affidavit or otherwise, is adduced showing that the lender is entitled to the relief demanded.

3. If a lender takes possession or voluntarily accepts surrender of goods in which the lender has a purchase money security interest to secure a credit transaction in the principal amount of less than five hundred dollars, the borrower is not liable to the lender for the unpaid balance.

4. Following any disposition of collateral pursuant to the provisions of [section 400.9-504] **sections 400.9-601 to 400.9-629**, RSMo, the lender shall be entitled to recover from the borrower the deficiency, if any, only if the amount financed in the transaction was more than five hundred dollars and the amount remaining unpaid at the time of default is three hundred dollars or more.

408.557. NOTICE REQUIRED BEFORE DEFICIENCY ACTION MAY BE COMMENCED. — [1.] When a lender sells or otherwise disposes of collateral in a transaction in which an action for a deficiency may be commenced against the borrower, prior to bringing any such action or upon written request of the borrower, the lender shall give the borrower the notice [described in this section. A lender gives notice to the borrower under this section when he delivers the notice to the borrower or mails the notice to him at his last known address.

2. The notice shall be in writing and conspicuously state:

(1) The name, address and telephone number of the lender to whom payment of any deficiency is to be made;

(2) An identification of the goods sold or otherwise disposed of;

(3) The date of sale or other disposition;

(4) The nature of the disposition if other than a sale, or, if a sale, whether or not the goods were sold at public auction and the name and address of the person who conducted the auction;

(5) The amount due the lender immediately prior to the disposition after deducting the amount of any refund of interest and, if known to the creditor, insurance premiums;

(6) The sale price;

(7) Expenses incurred by the lender permitted to be deducted from the sale price before application to the debt pursuant to sections 400.9-501 to 400.9-507, RSMo, itemized and identified to show the nature of each such expense; and

(8) The remaining deficiency, or surplus, as of the date of sale, computed by subtracting item (7) from item (6) and subtracting the difference so determined, if more than zero, from item (5) [provided in section 400.9-614, RSMo, for consumer goods transactions or section 400.9-613, RSMo, for all other transactions that are not consumer goods transactions.

409.204. DENIAL, REVOCATION, SUSPENSION, CANCELLATION AND WITHDRAWAL OF REGISTRATION. — (a) The commissioner may by order deny, suspend, or revoke any registration or bar or censure any registrant or any officer, director, partner or person occupying a similar status or performing similar functions for a registrant, from employment with a registered broker-dealer or investment adviser, or restrict or limit a registrant as to any function or activity of the business for which registration is required in this state, if [he] **the commissioner** finds (1) that the order is in the public interest and (2) that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:

(A) Has filed an application for registration which as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(B) Has willfully violated or willfully failed to comply with any provision of sections 409.101 to 409.419 or a predecessor act or any rule or order [under] **pursuant to** sections 409.101 to 409.419 or a predecessor act;

(C) Has been convicted, within the past ten years, of any misdemeanor involving a security or any aspect of the securities business, or any felony;

(D) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;

(E) Is the subject of an order of the commissioner denying, suspending, or revoking registration as a broker-dealer, agent, investment adviser, or investment adviser representative;

(F) Is the subject of an adjudication or determination, after notice and opportunity for hearing, within the past ten years by a securities or commodities agency or administrator of another state or a court of competent jurisdiction that the person has willfully violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940 or the Commodity Exchange Act, or the securities or commodities law of any other state;

(G) Has engaged in dishonest or unethical practices in the securities business;

(H) Is insolvent, either in the sense that his **or her** liabilities exceed his **or her** assets or in the sense that he **or she** cannot meet [his] obligations as they mature; but the commissioner may not enter an order against a broker-dealer or investment adviser [under] **pursuant to** this clause without a finding of insolvency as to the broker-dealer or investment adviser;

(I) Is not qualified on the basis of such factors as training, experience, and knowledge of the securities business, except as otherwise provided in subsection (b) of this section;

(J) Has failed reasonably to supervise his **or her** agents or employees if he **or she** is a broker-dealer, or [his] adviser representatives or employees if [he is] an investment adviser; for the purposes of this clause no person shall be deemed to have failed reasonably to supervise any person if there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violations by such other person, and such person has reasonably discharged the duties and obligations incumbent upon him **or her** by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with;

(K) Has failed to pay the proper filing fee; but the commissioner may enter only a denial order [under] **pursuant to** this clause, and he **or she** shall vacate any such order when the deficiency has been corrected; or

(L) Has been denied the right to do business in the securities industry, or the person's respective authority to do business in the securities industry has been revoked by any other state, federal or foreign governmental agency or self-regulatory organization for cause, or is the subject of a final order in a criminal action for securities or fraud related violations of the law of any state, federal, or foreign governmental unit, or within the last ten years the person has been the

subject of a final order in a civil, injunctive or administrative action for securities or fraud related violations of the law of any state, federal, or foreign governmental unit.

[An agent registered in Missouri transferring from one Missouri registered broker-dealer to another Missouri registered broker-dealer shall automatically have a temporary permit to transact securities business for one hundred twenty days following the date their application becomes complete and nondeficient, unless the commissioner has issued an order of denial or summary postponement under this section. The one hundred twenty-day temporary permit creates no property right for the agent or the broker dealer. During the one hundred twenty-day temporary permit the agent's application may be denied or summarily postponed under this section by the commissioner; however, if no denial or postponement has been entered during the period of the temporary permit, the agent will have a registration in Missouri. The commissioner shall have one hundred twenty days from the date of an initial or renewal registration in which to issue a revocation or suspension on the basis of a fact or transaction which was known to him when the registration became effective.]

(b) The following provisions govern the application of section 409.204(a)(2)(I):

(1) The commissioner may not enter an order against a broker-dealer on the basis of the lack of qualification of any person other than (A) the broker-dealer himself if he **or she** is an individual or (B) an agent of the broker-dealer.

(2) The commissioner may not enter an order against an investment adviser on the basis of the lack of qualification of any person other than (A) the investment adviser himself if he is an individual or (B) an investment adviser representative.

(3) The commissioner may not enter an order solely on the basis of lack of experience if the applicant or registrant is qualified by training or knowledge or both.

(4) The commissioner shall consider that an agent who will work under the supervision of a registered broker-dealer need not have the same qualifications as a broker-dealer and that an investment adviser representative who will work under the supervision of a registered investment adviser need not have the same qualifications as an investment adviser.

(5) The commissioner shall consider that an investment adviser is not necessarily qualified solely on the basis of experience as a broker-dealer or agent. When [he] **the commissioner** finds that an applicant for initial or renewal registration as a broker-dealer is not qualified as an investment adviser, [he] **the commissioner** may by order condition the applicant's registration as a broker-dealer upon [his] **the applicant** not transacting business in this state as an investment adviser.

(6) The commissioner may by rule provide for an examination, including an examination developed or approved by an organization of securities administrators, which examination may be written or oral or both, to be taken by any class of or all applicants, as well as persons who represent or will represent an investment adviser in doing any of the acts which make him **or her** an investment adviser; provided, however, that no examination may be required of any person (1) who was registered as a broker-dealer or as an agent or who was a general partner or officer of a registered broker-dealer January 1, 1968, and (2) who has been continuously registered [under] **pursuant to** this law since that time. The commissioner may by rule or order waive the examination requirement as to a person or class of persons if the commissioner determines that the examination is not necessary for the protection of advisory clients.

(c) The commissioner may by order summarily postpone or suspend registration pending final determination of any proceeding [under] **pursuant to** this section, including a proceeding to determine the completeness of an application or where the commissioner is requesting additional information regarding the application. Upon the entry of the order, the commissioner shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is an agent or investment adviser representative, that it has been entered and of the reasons therefor and that within fifteen days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the

commissioner. If hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination.

(d) If the commissioner finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, agent, investment adviser or investment adviser representative, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the commissioner may by order cancel the registration or application.

(e) Withdrawal from registration as a broker-dealer, agent, investment adviser or investment adviser representative becomes effective thirty days after receipt of an application to withdraw or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within thirty days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner may nevertheless institute a revocation or suspension proceeding [under] **pursuant to** section 409.204(a)(2)(B) within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

(f) (1) If a proceeding is instituted to revoke or suspend a registration of any agent, broker-dealer [or], investment adviser [under], **or investment adviser representative pursuant to** sections 409.101 to 409.419, the commissioner shall refer the case to the administrative hearing commission. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in such cases. The commissioner shall have the burden of proving a ground for suspension or revocation [under] **pursuant to** sections 409.101 to 409.419.

(2) The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in those cases wherein a person files a petition with the commission, which petition states that the commissioner has denied any registration of any agent, broker-dealer or investment adviser [under] **pursuant to** sections 409.101 to 409.419.

(3) Upon receipt of a written complaint or petition filed pursuant to subsections (1) and (2) of this subsection (f), the administrative hearing commission shall cause a copy of the complaint or petition to be served upon the appropriate parties in person or by certified mail, together with a notice of the place of and date upon which the hearing on the complaint or petition will be held.

(4) Hearing procedures, action by the commissioner in revoking, suspending or denying any registration of any agent, broker-dealer or investment adviser hereunder, judicial review of the decisions of the commissioner and of the administrative hearing commission, and all other procedural matters hereunder shall be governed by the provisions of sections 621.015 to 621.193, RSMo.

(g) **An agent or investment adviser representative registered in this state transferring from one Missouri registered broker-dealer or investment adviser to another Missouri registered broker-dealer or investment adviser shall automatically have a temporary registration to transact securities business for thirty days following the date the application becomes complete and nondeficient, unless the commissioner has withdrawn the temporary registration or issued an order of denial or summary postponement pursuant to this section. The thirty-day temporary registration creates no property right for the agent, broker-dealer, investment adviser, or investment adviser's representative. During the thirty-day temporary registration, the agent's or investment adviser's application may be denied or summarily postponed by the commissioner pursuant to this section; however, if no denial or postponement has been entered during the period of temporary registration, the agent or investment adviser representative shall have a registration in this state. However, the registration of the transferring agent or investment adviser representative is immediately effective as of the date the new employment or association began,**

if the application contains no new or amended disciplinary disclosure within the preceding three years.

(h) The commissioner shall have one hundred twenty days from the date of an initial or renewal registration in which to institute a proceeding to revoke or suspend a registration of any agent, broker-dealer, investment adviser, or investment adviser representative because of a fact or transaction that was known by the commissioner when the registration became effective.

409.402. EXEMPTIONS. — (a) The following securities are exempted from sections 409.301 and 409.403:

(1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing;

(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized [under] **pursuant to** the laws of the United States, or any bank, savings institution, or trust company organized and supervised [under] **pursuant to** the laws of any state;

(4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized [under] **pursuant to** the laws of any state and authorized to do business in this state;

(5) Any security issued by an agricultural cooperative corporation organized [under] **pursuant to** the laws of this state and operated as an agricultural "cooperative association" if the commissioner is notified in writing thirty days, or such shorter period of time as the commissioner may by rule or order specify, before any such security is sold or offered for sale other than in transactions exempted [under] **pursuant to** subsection (b) [hereof] **of this section**, which notification shall contain the form of prospectus or other sales literature intended to be used in connection with the offering of such security together with financial statements;

(6) Any security issued or guaranteed by any federal credit union or any credit union, industrial loan association, or similar association organized and supervised [under] **pursuant to** the laws of this state;

(7) Any security issued or guaranteed by any railroad, other common carrier, public utility, or holding company which is (A) subject to the jurisdiction of the Interstate Commerce Commission; (B) a registered holding company [under] **pursuant to** the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act; (C) regulated in respect of its rates and charges by a governmental authority of the United States or any state; or (D) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province;

(8) Any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, or the Midwest Stock Exchange or any other duly organized stock exchange approved by the commissioner by rule or order; any other security of the same issuer which is of senior or substantially equal rank, any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing;

(9) Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association if the commissioner is notified in writing thirty days, or such shorter period of time as the

commissioner may by rule or order specify, before any such security is sold or offered for sale other than in transactions exempted [under] **pursuant to** subsection (b) [hereof] **of this section**;

(10) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal;

(11) Any security offered, sold, issued, distributed or transferred in connection with an employees' stock ownership, savings, pension, profit-sharing, stock bonus, or similar benefit plan or trust (including a self-employed persons retirement plan), provided, in the case of plans or trusts which are not qualified [under] **pursuant to** section 401 of the Internal Revenue Code of 1954 and which provide for contributions by employees, if the commissioner is notified in writing thirty days before the inception of the plan or, with respect to plans which are in effect on January 1, 1968, within sixty days thereafter (or within thirty days before they are reopened if they are closed on January 1, 1968). The commissioner may for good cause shown accept written notification at any time before the issuance of any such security in this state or any security offered, sold, issued, distributed or transferred in connection with an employees' stock purchase or stock option plan. In the case of issuers who do not have a class of securities registered [under] **pursuant to** section 12 of the Securities Exchange Act of 1934 the commissioner may for good cause shown accept notification in writing before the first issuance of interests or participations under a stock purchase plan or before the first exercise of options under a stock option plan.

(b) The following transactions are exempted from sections 409.301 and 409.403 except that no transaction in a certificate of interest or participation, including a limited partnership interest, in an oil, gas or mining title or lease, or in payments out of production or under such a title or lease shall be so exempted:

(1) Any isolated nonissuer transaction, whether effected through a broker-dealer or not;

(2) Any nonissuer distribution of an outstanding security if (A) a recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within eighteen months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or (B) the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest, or dividends on the security;

(3) Any nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order to buy if the broker-dealer acts as agent for the purchaser and receives no commission or other compensation from any source other than the purchase; but the commissioner may by rule require that the purchaser acknowledge upon a specified form that his **or her** order to buy was unsolicited, and that a signed copy of each such form be preserved by the broker-dealer for a specified period;

(4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(5) Any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit;

(6) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

(7) Any transaction executed by a bona fide pledgee without any purpose of evading this act;

(8) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profitsharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

(9) Any transaction by an issuer in a security of its own issue if immediately thereafter the total number of persons who are known to the issuer to have any direct or indirect record or beneficial interest in any of its securities (but not including persons with whom transactions have been exempted by paragraph (8) of this subsection) does not exceed twenty-five and if no commission or other remuneration is paid or given to anyone for procuring or soliciting the transaction;

(10) Any transaction by an issuer in a security of its own issue if (A) during the twelve months' period ending immediately after such transaction the issuer will have made no more than fifteen transactions exempted by this paragraph (other than transactions also exempted by paragraphs (8) and (9), and (B) the issuer reasonably believes that the buyer is purchasing for investment and the buyer so represents in writing and (C) no commission or other remuneration is paid or given to anyone for procuring or soliciting the sale; but the commissioner may by rule or order, as to any security or transaction or any type of security or transaction, withdraw or further condition this exemption, or increase or decrease the number of prior transactions permitted by clause (A) or waive the conditions in clauses (B) or (C) with or without the substitution of a limitation on remuneration;

(11) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than ninety days of their issuance, if (A) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this state, or (B) the issuer first files a notice specifying the terms of the offer and the commissioner does not by order disallow the exemption within the next five full business days;

(12) Any offer (but not a sale) of a security for which registration statements have been filed [under] **pursuant to** both this act and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending [under] **pursuant to** either act;

(13) Any nonissuer transaction by a person who does not control, or who is not controlled by or under common control with, the issuer in a security which has been (and securities which are of the same class as securities of the same issuer which have been) either registered for sale [under] **pursuant to** the laws of this state regulating the sale of securities or lawfully sold in this state as a security exempt from such registration;

(14) Any nonissuer transaction in a security which at the time of such transaction would be eligible for registration by notification;

(15) Any nonissuer transaction by a person who does not control, and is not controlled by or under common control with, the issuer if (i) the transaction is at a price reasonably related to the current market price, and (ii) the security is registered with the Securities and Exchange Commission [under] **pursuant to** section 12 of the Securities Exchange Act of 1934 and the issuer files reports with the Securities and Exchange Commission pursuant to section 13 of that act;

(16) Any patronage distributions of an agricultural cooperative corporation received by a patron or member in the form of capital stock, revolving fund certificate, retain certificate, certificate of indebtedness, letter of advice, or other written notice.

(c) The commissioner may by rule or order exempt from sections 409.301 and 409.403 any other transaction not exempted in subsection (b), and may by order withdraw or condition the exemption as [he] **the commissioner** deems necessary in the public interest.

(d) The commissioner may by order deny or revoke any exemption specified in clause (9) or (11) of subsection (a) or in subsection (b) with respect to a specific security or transaction. No

such order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the commissioner may by order summarily deny or revoke any of the specified exemptions pending final determination of any proceeding [under] **pursuant to** this subsection. Upon the entry of a summary order, the commissioner shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within fifteen days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commissioner the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order [under] **pursuant to** this subsection may operate retroactively. No person may be considered to have violated section 409.301 or 409.403 by reason of any offer or sale effected after the entry of an order [under] **pursuant to** this subsection if he **or she** sustains the burden of proof that he **or she** did not know, and in the exercise of reasonable care could not have known, of the order.

(e) The commissioner may by order after a hearing deny or revoke any exemption for a security issued by an agricultural cooperative corporation not qualifying [under] **pursuant to** clause (5) of subsection (a).

(f) In any proceeding [under] **pursuant to** this act, the burden of proving an exemption, **qualification as a federal covered security**, or an exception from a definition is upon the person claiming it.

(g) A person required to file for an exemption [under] **pursuant to** this section shall pay a fee not to exceed one hundred dollars.

417.210. REGISTRATION, WHEN AND HOW — REREGISTRATION. — 1. Every person, general partnership, corporation, or other business organization who engages in business in this state under a fictitious name or under any name other than the true name of such person, general partnership, corporation, or other business organization shall, within five days after the beginning or engaging in business under such fictitious name, [register by verified statement of all parties concerned,] **execute the form required in this section, and shall be subject to the penalties of making a false declaration pursuant to section 575.060, RSMo, that the facts stated therein are true and that all parties concerned are duly authorized to execute such document and are otherwise required to file such document pursuant to this section upon [blanks] fictitious name forms** furnished by the secretary of state, such partnership or other fictitious name in the office of the secretary of state, together with the name or names and the residence of each and every person, partnership, corporation, or other business organization interested in or owning any part of the business; provided, that if the interest of any owner shall cease to exist, or any other person, partnership, corporation, or other entity shall become an owner, such fictitious name shall be reregistered within five days after any such change shall take place in the ownership of the business or any part thereof as set forth in the original registration, and such reregistration shall in all respects be made as in the case of an original registration of such fictitious name; provided, that the provisions of this section shall not apply to farmers' mutual insurance companies nor farmers' mutual telephone companies.

2. If the interest of any owner of a business conducted under a fictitious name registered as provided in this section is such that such owner may claim not to be jointly and severally liable to third parties with respect to debts and obligations incurred by such business, the registration relating to such business shall reflect the respective exact ownership interests of each owner of such business. In the case of any other business registered as provided in this section, disclosure of the respective exact ownership interests shall be optional.

3. For purposes of this section, a partnership or other entity formed for the practice of a licensed profession shall not be deemed to be engaged in the conduct of business, notwith-

standing the transaction by such entity of business ancillary to the practice of such licensed profession.

454.507. FINANCIAL INSTITUTIONS, DIVISION MAY REQUEST INFORMATION, WHEN, FEES — DEFINITIONS — DATA MATCH SYSTEM — NOTICE OF LIEN. — 1. In addition to the authority of the division to request information pursuant to section 454.440, the division may request information from financial institutions pursuant to this section.

2. As used in this section:

(1) "Account" includes a demand deposit, checking or negotiable withdrawal order account, savings account, time deposit account or money market mutual fund account;

(2) "Encumbered assets", the noncustodial parent's interest in an account which is encumbered by a lien arising by operation of law or otherwise;

(3) "Financial institution" includes:

(a) A depository institution as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. section 1813(c));

(b) An institution affiliated party as defined in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. section 1813(u));

(c) Any federal credit union or state credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. section 1752), including an institution affiliated party of such a credit union as defined in section 206(r) of the Federal Credit Union Act (12 U.S.C. section 1786(r)); or

(d) Any benefit association, insurance company, safe deposit company, money market fund or similar entity authorized to do business in the state.

3. The division shall enter into agreements with financial institutions to develop and operate a data match system which uses automated exchanges to the maximum extent feasible. Such agreements shall require the financial institution, to provide to the division, for each calendar quarter, the name, record address, Social Security number or other taxpayer identification number, and other identifying information of each noncustodial parent who maintains an account at such institution and who owes past due support, as identified by the division by name and Social Security number or other taxpayer identification number. The financial institution shall only provide such information stated in this subsection that is readily available through existing data systems, and as such data systems are enhanced, solely at the financial institution's discretion and for its business purposes, the financial institution shall provide any original and additional information which becomes readily available for any new data match request.

4. The division shall pay a reasonable fee to the financial institution for conducting the data match pursuant to this section, but such amount shall not exceed the costs incurred by the financial institution.

5. The division [of] or a IV-D agency may issue liens against any account in a financial institution and may release such liens.

6. **(1)** If a notice of lien is received from the division or a IV-D agency, the financial institutions shall immediately encumber the assets held by such institution on behalf of any noncustodial parent who is subject to such lien. However, if the account is in the name of a noncustodial parent and such parent's spouse **or parent**, the financial institution at its discretion may not encumber the assets and when it elects not to encumber such assets, shall so notify the division or IV-D agency. The amount of assets to be encumbered shall be stated in the notice and shall not exceed the amount of unpaid support due at the time of issuance. [The financial institution shall, within five business days of receipt of such notice, mail a copy of the notice of lien to the noncustodial parent and any other person named on the account at the address shown in the records of the financial institution.] **The financial institution shall, within ten business days of receipt of a notice of lien, notify the division or IV-D agency of the financial institution's response to the notice of lien.**

(2) Within ten business days of notification by the financial institution that assets have been encumbered, the division or IV-D agency shall notify by mail the noncustodial parent of the issuance of the lien and the reasons for such issuance. The notice shall advise the noncustodial parent of the procedures to contest such lien pursuant to section 454.475 by requesting a hearing within thirty days from the date the notice was mailed by the division to the noncustodial parent.

7. (1) Except as provided in subsection 6 of this section, the interest of the noncustodial parent shall be presumed equal to all other joint owners, unless at least one of the joint owners provides the division or IV-D agency with a true copy of a written agreement entered prior to the date of issuance of notice of lien, or other clear and convincing evidence regarding the various ownership interests of the joint owners within twenty days of the financial institution's mailing of the notice of lien. The financial institution shall only encumber the amount presumed to belong to the noncustodial parent. The division or IV-D agency may proceed to issue an order for the amount in the account presumed to belong to the noncustodial parent if no prior written agreement or other evidence is provided.

(2) If a prior written agreement or other clear and convincing evidence is furnished to the division, and based on such agreement or evidence the division or IV-D agency determines that the interest of the noncustodial parent is less than the presumed amount, the division or IV-D agency shall amend the lien to reflect the amount in the account belonging to the noncustodial parent or shall release the lien if the noncustodial parent has no interest in the account. In no event shall the division or IV-D agency obtain more than the presumed amount of the account without a judicial determination that a greater amount of the account belongs to the noncustodial parent. The division or IV-D agency may by levy and execution on a judgment in a court of competent jurisdiction seek to obtain an amount greater than the amount presumed to belong to the noncustodial parent upon proof that the noncustodial parent's interest is greater than the amount presumed pursuant to this subsection.

(3) For purposes of this subsection, accounts are not joint accounts when the noncustodial parent has no legal right to the funds, but is either a contingent owner or agent. Such nonjoint accounts shall include, but are not limited to, a pay-on-death account or any other account in which the noncustodial parent owner may act as agent by a power of attorney or otherwise. Furthermore, when any account naming the noncustodial parent has not been disclosed to the noncustodial parent which is evidenced by a signature card or other deposit agreement not containing the signature of such noncustodial parent, then for the purposes of this subsection, such account shall not be treated as a joint account.

(4) Notwithstanding any other provision of this section, a financial institution shall not encumber any account of less than one hundred dollars.

8. Upon service of an order to surrender issued pursuant to this section, any financial institution in possession of a jointly owned account may interplead such property as otherwise provided by law.

9. Any other joint owner may petition a court of competent jurisdiction for a determination that the interests of the joint owners are disproportionate. The party filing the petition shall have the burden of proof on such a claim. If subject to the jurisdiction of the court, all persons owning affected accounts with a noncustodial parent shall be made parties to any proceeding to determine the respective interests of the joint owners. The court shall enter an appropriate order determining the various interests of each of the joint owners and authorizing payment against the obligor's share for satisfaction of the child support or maintenance obligation.

10. The court may assess costs and reasonable attorney's fees against the noncustodial parent if the court determines that the noncustodial parent has an interest in the affected joint account.

11. The division may order the financial institution to surrender all or part of the encumbered assets. The order shall not issue until sixty days after the notice of lien is sent to the

financial institution. The financial institution shall, within seven days of receipt of the order, pay the encumbered amount as directed in the order to surrender.

12. A financial institution shall not be liable pursuant to any state or federal law, including 42 U.S.C. section 669A, to any person for:

(1) Any disclosure of information to the division pursuant to this section;

(2) Encumbering or surrendering any assets held by the financial institution in response to a lien or order pursuant to this section and notwithstanding any other provisions in this section to the contrary, encumbering or surrendering assets from any account in the financial institution connected in any way to the noncustodial parent; or

(3) Any other action taken in good faith to comply with the requirements of this section.

13. A financial institution that fails without due cause to comply with a notice of lien or order to surrender issued pursuant to this section shall be liable for the amount of the encumbered assets and the division may bring an action against the financial institution in circuit court for such amount. For purposes of this subsection, "due cause" shall include, but not be limited to, when a financial institution demonstrates to a court of competent jurisdiction that the institution established in good faith a routine to comply with the requirements of this section and that one or more transactions to enforce the lien or order to surrender were not completed due to an accidental error, a misplaced computer entry, or other accidental human or mechanical problems.

454.516. LIEN ON MOTOR VEHICLES, BOATS, MOTORS, MANUFACTURED HOMES AND TRAILERS, WHEN, PROCEDURE — NOTICE, CONTENTS — REGISTRATION OF LIEN, RESTRICTIONS, REMOVAL OF LIEN — PUBLIC SALE, WHEN — GOOD FAITH PURCHASERS — CHILD SUPPORT LIEN DATABASE TO BE MAINTAINED. — 1. The director or IV-D agency may cause a lien pursuant to [subsection] **subsections 2 and 3** of this section or the obligee may cause a lien pursuant to subsection [9] **7** of this section for unpaid and delinquent child support to [be placed upon] **block the issuance of a certificate of ownership for** motor vehicles, motor boats, outboard motors, manufactured homes and trailers that are registered in the name of a delinquent child support obligor[, if the title to the property is held by a lienholder].

2. The director or IV-D agency shall notify the department of revenue with the required information necessary to impose a lien pursuant to this section by filing a notice of lien[, and the department of revenue shall notify the lienholder of the existence of such lien].

3. **The director or IV-D agency shall not notify the department of revenue and the department of revenue shall not register [the] such lien [unless] except as provided in this subsection. After the director or IV-D agency decide that such lien qualifies pursuant to this section and forward it to the department of revenue, the director of revenue or the director's designee shall only file such lien against the obligor's certificate of ownership when:**

(1) The [director of revenue or the director's designee determines that the] obligor has unpaid child support which exceeds one thousand dollars;

(2) The property has a value of more than three thousand dollars as determined by current industry publications that provide such estimates to dealers in the business, and the property's year of manufacture is within seven years of the date of filing of the lien except in the case of a motor vehicle that has been designated a historic vehicle;

(3) The property has no more than two existing liens for child support;

(4) The property has had no more than three prior liens for child support in the same calendar year.

4. In the event that a lien is placed and the obligor's total support obligation is eliminated, the director shall notify the department of revenue that the lien shall be removed.

5. Upon notification [by the director] that a lien exists pursuant to this section, the department of revenue shall [send a sticker of impaired title in an envelope which says prominently "important legal document" to the lienholder] **register the lien on the records of**

the department of revenue. Such [sticker] **registration** shall contain the type and model of the property[,] **and** the serial number of the property [and the identification number of the obligor and shall be properly affixed to the certificate of title by the lienholder].

6. Upon notification by the director that the lien shall be removed pursuant to subsection 4 of this section, the department of revenue shall [send a void sticker to the lienholder and such void sticker shall be properly affixed to the certificate of title by the lienholder covering the impaired title sticker. Such sticker] **register such removal of lien on its datebank, that** shall contain the type and model of the property[,] **and** the serial number of the property [and the identification number of the obligor].

[7. When a lienholder has received notice of a lien created by the division or IV-D agency pursuant to this section and the obligor thereafter satisfies the debt to that lienholder, the lienholder shall mail to the division or IV-D agency the certificate of ownership on the motor vehicle, motor boat, outboard motor, manufactured home or trailer.] The division or IV-D agency may hold [the certificate of ownership] **any satisfaction of the registered lien** until the child support obligation is satisfied, or levy and execute on the motor vehicle, motor boat, outboard motor, manufactured home or trailer and sell same, at public sale, in order to satisfy the debt. [A lienholder shall inform dealers in the business of motor vehicles, motor boats, manufactured homes and trailers, upon request, of the existence or nonexistence of a lien imposed by the division pursuant to this section.

8. A good faith purchaser for value without notice of the lien or a lender without notice of the lien takes free of the lien.

9.] 7. In cases which are not IV-D cases, to cause a lien pursuant to the provisions of this section the obligee or the obligee's attorney shall file notice of the lien with the [lienholder or payor] **department of revenue.** This notice shall have attached a certified copy of the court order with all modifications and a sworn statement by the obligee or a certified statement from the court attesting to or certifying the amount of arrearages.

8. **Notwithstanding any other law to the contrary, the department of revenue shall maintain a child support lien database for outstanding child support liens against the owner's certificate of ownership provided for by chapters 301, 306, and 700, RSMo. To determine any existing liens for child support pursuant to this section, the lienholder, dealer, or buyer may inquire electronically into the database. A good faith purchaser for value without notice of the lien in the database or a lender without notice of the lien in the database takes free of the lien.**

525.070. GARNISHEE MAY DISCHARGE HIMSELF, HOW. — Whenever any property, effects, money or debts, belonging or owing to the defendant, shall be confessed, or found by the court or jury, to be in the hands of the garnishee, [he] **the garnishee** may, at any time before final judgment, discharge himself, by paying or delivering the same, or so much thereof as the court shall order, to the sheriff **or to the court**, from all further liability on account of the property, money or debts so paid or delivered.

541.155. FRAUDULENT USE OF A CREDIT DEVICE, WHERE PROSECUTED. — **Any person charged with fraudulent use of a credit device, or any stealing offense in which another person's credit card number, check, or checking account number was fraudulently used for the purpose of obtaining property or services of another, shall be prosecuted:**

- (1) In the county in which the offense is committed; or
- (2) If the offense is committed partly in one county and partly in another, or if the elements of the offense occur in more than one county, then in any of the counties where any element of the offense occurred; or
- (3) In the county in which the defendant resides; or
- (4) In the county in which the victim resides; or

(5) In the county in which the property obtained or attempted to be obtained was located.

570.130. FRAUDULENT USE OF A CREDIT DEVICE OR DEBIT DEVICE — PENALTY. — 1. A person commits the crime of fraudulent use of a credit device or debit device if the person uses a credit device or debit device for the purpose of obtaining services or property, knowing that:

- (1) The device is stolen, fictitious or forged; or
- (2) The device has been revoked or canceled; or
- (3) For any other reason his use of the device is unauthorized; or

(4) Uses a credit device or debit device for the purpose of paying property taxes and knowingly cancels said charges or payment without just cause. It shall be prima facie evidence of a violation of this section if a person cancels said charges or payment after obtaining a property tax receipt to obtain license tags from the Missouri department of revenue.

2. Fraudulent use of a credit device or debit device is a class A misdemeanor unless the value of the **property tax or the value of the** property or services obtained or sought to be obtained within any thirty-day period is one hundred fifty dollars or more, in which case fraudulent use of a credit device or debit device is a class D felony.

575.060. FALSE DECLARATIONS. — 1. A person commits the crime of making a false declaration if, with the purpose to mislead a public servant in the performance of his duty, he:

- (1) Submits any written false statement, which he does not believe to be true
 - (a) In an application for any pecuniary benefit or other consideration; or
 - (b) On a form bearing notice, authorized by law, that false statements made therein are punishable; or
- (2) Submits or invites reliance on
 - (a) Any writing which he knows to be forged, altered or otherwise lacking in authenticity; or

or

- (b) Any sample, specimen, map, boundary mark, or other object which he knows to be false.

2. The falsity of the statement or the item under subsection 1 of this section must be as to a fact which is material to the purposes for which the statement is made or the item submitted; and the provisions of subsections 2 and 3 of section 575.040 shall apply to prosecutions under subsection 1 of this section.

3. It is a defense to a prosecution under subsection 1 of this section that the actor retracted the false statement or item but this defense shall not apply if the retraction was made after:

- (1) The falsity of the statement or item was exposed; or
- (2) The public servant took substantial action in reliance on the statement or item.

4. The defendant shall have the burden of injecting the issue of retraction under subsection 3 of this section.

5. For the purpose of this section, "written" shall include filings submitted in an electronic or other format or medium approved or prescribed by the secretary of state.

6. Making a false declaration is a class B misdemeanor.

700.350. LIENS AND ENCUMBRANCES — VALID, PERFECTED, WHEN, HOW — HOME SUBJECT TO, WHEN, HOW DETERMINED — SECURITY PROCEDURES — VALIDITY OF PRIOR TRANSACTIONS. — 1. As used in sections 700.350 to 700.390, the term "manufactured home" shall have the same meanings given it in section 700.010 or **section 400.9-102(a)(53), RSMo.**

2. Unless excepted by section 700.375, a lien or encumbrance on a manufactured home shall not be valid against subsequent transferees or lienholders of the manufactured home who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 700.350 to 700.380.

3. A lien or encumbrance on a manufactured home is perfected by the delivery to the director of revenue[, by the owner, of the existing certificate of ownership, if any, an application for a certificate of ownership containing the name and address of the lienholder and the date of his security agreement, and the required certificate of ownership fee] **of a notice of lien in a format as prescribed by the director of revenue.** Such lien or encumbrance shall be perfected as of the time of its creation if the delivery [of the items] **of the notice of lien** required in this subsection to the director of revenue is completed within thirty days thereafter, otherwise such lien or encumbrance shall be perfected as of the time of the delivery. **A notice of lien shall contain the name and address of the owner of the manufactured home and the secured party, a description of the manufactured home, including any identification number and such other information as the department of revenue shall prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.** Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the **future advance** lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" [in the second lienholder's portion of the title application] **in the notice of lien** and noted on the certificate of ownership if the motor vehicle or trailer is subject to only one lien. **To secure future advances when an existing lien on a manufactured home does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows: proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted by the department of revenue, and returned to the lienholder.**

4. Whether a manufactured home is subject to a lien or encumbrance shall be determined by the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrances attached that the manufactured home would be kept in this state and it is brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state shall be determined by the laws of this state;

(2) If the lien or encumbrance was perfected under the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, his lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by the jurisdiction, the lien or encumbrance continues perfected in this state for three months after the first certificate of title of the manufactured home is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period, in which case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected under the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, it may be perfected in this state, in which case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected under paragraph (b) of subdivision (2) or subdivision (3) of this subsection in the same manner as provided in subsection 3 of this section **or by the lienholder delivering to the director or revenue a notice of lien or encumbrance in the form the director prescribes and the required fee.**

5. By rules and regulations, the director of revenue shall establish a security procedure for the purpose of verifying that an electronic notice of lien or notice of

satisfaction of lien on a manufactured home given as permitted in this chapter is that of the lienholder, verifying that an electronic notice of confirmation of ownership and perfection of a lien given as required in this chapter is that of the director of revenue, and detecting error in the transmission or the content of such notice. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, call back procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself be a security procedure.

6. All transactions involving liens or encumbrances on manufactured homes perfected pursuant to sections 700.350 to 700.390 after June 30, 2001, and before August 28, 2002, and the rights, duties, and interests flowing from them are and shall remain valid thereafter and may be terminated, completed, consummated, or enforced as required or permitted by section 400.9-303, RSMo, or this section. Section 400.9-303, RSMo, and this section are remedial in nature and shall be given that construction.

7. The repeal and reenactment of subsections 3 and 4 of this section shall become effective July 1, 2003.

700.355. CERTIFICATES OF TITLE, DELIVERY OF, HOW, TO WHOM — ELECTION FOR DIRECTOR TO RETAIN POSSESSION, PROCEDURE. — [All certificates of title to a manufactured home issued by the director of revenue shall be mailed or otherwise delivered to the first lienholder named in such certificate or, if no lienholder is named, to the owner named therein.]

1. A certificate of title to the manufactured home when issued by the director of revenue shall be mailed to the owner shown on the face of the title of such manufactured home. Provided the lienholder submits complete and legible documents, the director of revenue shall mail confirmation or electronically confirm receipt of each notice of lien to the lienholder as soon as possible, but no later than fifteen business days after the filing of the notice of lien.

2. A lienholder may elect that the director of revenue retain possession of an electronic certificate of title, and the director shall issue regulations to cover the procedure by which such election is made. Each such certificate of ownership shall require a separate election unless the director provides otherwise by regulation. A subordinate lienholder shall be bound by the election of the superior lienholder with respect to the certificate involved.

3. As used in this section, "electronic certificate of ownership" means any electronic record of ownership including a lien or liens that may be recorded.

700.360. CREATION OF LIEN OR ENCUMBRANCE BY OWNER, DUTIES, FAILURE TO PERFORM, PENALTY — SUBORDINATE LIENHOLDERS, PERFECTION PROCEDURE — NEW CERTIFICATE ISSUED, WHEN. — If an owner creates a lien or encumbrance on a manufactured home:

(1) The owner shall immediately execute the application, either in the space provided therefor on the certificate of title or on a separate form the director of revenue prescribes, to name the lienholder on the certificate of title, showing the name and address of the lienholder and the date of his security agreement, and shall cause the certificate of title, the application and the required fee to be mailed or delivered to the director of revenue. Failure of the owner to do so, **including naming the lienholder in such application**, is a class A misdemeanor;

(2) [Upon request of the owner or subordinate lienholder, a lienholder in possession of the certificate of title who receives the owner's application and required fee shall mail or deliver the certificate of title, application, and fee to the director of revenue. The delivery of the certificate of title to the director of revenue shall not affect the rights of the first lienholder under his security agreement;

(3) Upon receipt of the certificate of title, application and the required fee, the director of revenue shall issue a new certificate of title containing the name and address of the new lienholder, and mail the certificate of title to the first lienholder named in it.] **The lienholder or an authorized agent licensed pursuant to sections 301.112 to 301.119, RSMo, shall deliver to the director of revenue a notice of lien as prescribed by the director of revenue accompanied by all other necessary documentation to perfect a lien as provided in this section;**

(3) To perfect a lien for a subordinate lienholder when a transfer of ownership occurs, the subordinate lienholder shall either mail or deliver or cause to be mailed or delivered, a completed notice of lien to the department of revenue, accompanied by authorization from the first lienholder. The owner shall ensure the subordinate lienholder is recorded on the application for title at the time the application is made to the department of revenue. To perfect a lien for a subordinate lienholder when there is no transfer of ownership, the owner or lienholder in possession of the certificate, shall either mail or deliver or cause to be mailed or delivered, the owner's application for title, certificate, notice of lien, authorization from the first lienholder and title fee to the department of revenue. The delivery of the certificate and executing a notice of authorization to add a subordinate lien does not affect the rights of the first lienholder under the security agreement;

(4) Upon receipt of the documents and fee required in subdivision (3) of this section, the director of revenue shall issue a new certificate of ownership containing the name and address of the new lienholder, and shall mail the certificate as prescribed in section 700.355, or if a lienholder who has elected for the director of revenue to retain possession of an electronic certificate of ownership, the lienholder shall either mail or deliver to the director a notice of authorization for the director to add a subordinate lienholder to the existing certificate. Upon receipt of such authorization, a notice of lien and required documents and title fee, if applicable, from a subordinate lienholder, the director shall add the subordinate lienholder to the certificate of ownership being electronically retained by the director and provide confirmation of the addition to both lienholders.

700.365. ASSIGNMENT OF LIEN OR ENCUMBRANCE BY LIENHOLDER, RIGHTS AND OBLIGATIONS—PERFECTION BY ASSIGNEE, HOW. — 1. A lienholder may assign, absolutely or otherwise, his lien or encumbrance on the manufactured home to a person other than the owner without affecting the interest of the owner or the validity or effect of the lien or encumbrance, but any person without notice of the assignment is protected in dealing with the lienholder as the holder of the lien or encumbrance and the lienholder shall remain liable for any obligations as lienholder until the assignee is named as lienholder on the certificate of title.

2. An assignee under subsection 1 of this section may, but need not to perfect the assignment, have the certificate of title issued with the assignee named as lienholder, upon delivering to the director of revenue the certificate of title, an assignment by the lienholder named in the certificate of title, and the required fee in the form the director of revenue prescribes.

3. **If the certificate of ownership is being electronically retained by the director of revenue, the original lienholder may mail or deliver a notice of assignment of a lien to the director in a form prescribed by the director. Upon receipt of notice of assignment, the director shall update the electronic certificate of ownership to reflect the assignment of the lien and lienholder.**

700.370. SATISFACTION OF LIEN OR ENCUMBRANCE, RELEASE OF, PROCEDURE. — [1.] Upon the satisfaction of a lien or encumbrance on a manufactured home [for which the certificate of title is in the possession of the lienholder], the lienholder shall, within ten days after demand, [and, in any event, within thirty days, execute a] release [of his] **the** lien or encumbrance **on the certificate or a separate document**, and mail or deliver the certificate [and

release to the next lienholder named therein, or, if no other lienholder is so named] **or separate document**, to the owner or any person who delivers to the lienholder an authorization from the owner to receive the certificate **or separate document**. **Each perfected subordinate lienholder, if any, shall release such lien or encumbrance as provided in this section for the first lienholder. The release on the certificate or separate document shall be notarized.** The owner may cause the certificate of title, the release, and the required fee to be mailed or delivered to the director of revenue, who shall release the lienholder's rights on the certificate and issue a new certificate of title.

[2. Upon the satisfaction of a second or third lien or encumbrance on a manufactured home for which the certificate of title is in the possession of the first lienholder, the lienholder whose lien or encumbrance is satisfied shall, within ten days after demand, and, in any event, within thirty days, execute a release and deliver the release to the owner or any person who delivers to the lienholder an authorization from the owner to receive it. The lienholder in possession of the certificate of title shall, at the request of the owner and upon receipt of the release and the required fee, either mail or deliver the certificate, the release, and the required fee to the director of revenue, or deliver the certificate of title to the owner, or the person authorized by him, for delivery of the certificate, the release and required fee to the director of revenue, who shall release the subordinate lienholder's rights on the certificate of title and issue a new certificate of title.]

700.380. LIENS AND ENCUMBRANCES INCURRED BEFORE JULY 1, 2003 — HOW TERMINATED, COMPLETED AND ENFORCED. — All transactions involving liens or encumbrances on manufactured homes entered into before [December 31, 1985] **July 1, 2003**, and the rights, duties, and interests flowing from such transactions shall remain valid [after December 31, 1985] **thereafter except as otherwise provided by law**, and may be terminated, completed, consummated, or enforced as required or permitted by any statute or other law amended or repealed by sections 700.350 to 700.380 as though such repeal or amendment had not occurred.

SECTION B. EFFECTIVE DATE. — The repeal and reenactment of section 375.018, as enacted by house committee substitute for senate substitute for senate bill no. 193, ninety-first general assembly, first regular session, and the repeal of section 375.018 as enacted by conference committee substitute for senate committee substitute for house committee substitute for house bill no. 709, eighty-seventh general assembly, first regular session, shall become effective January 1, 2003.

SECTION C. EFFECTIVE DATE. — The repeal and reenactment of sections 301.600, 301.610, 301.620, 301.630, 301.640, 301.660, 306.400, 306.405, 306.410, 306.415, 306.420, 306.430, 306.440, 364.120, 365.140, 385.050, 408.083, 408.170, 408.320, 454.516, 700.355, 700.360, 700.365, 700.370, and 700.380 of section A of this act shall become effective July 1, 2003.

Approved July 11, 2002

SB 915 [CCS HS SCS SB 915, 710 & 907]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Raises motor fuel tax and sales tax and diverts other revenues to fund transportation projects.

AN ACT to repeal sections 142.803, 144.020, 144.021, 144.440, 144.700 and 226.200, RSMo, relating to measures to increase funding for transportation, and to enact in lieu thereof eight new sections relating to the same subject, with a referendum clause, effective date and a contingent termination date for certain sections.

SECTION

- A. Enacting clause.
- 142.803. Imposition of tax on fuel, amount — collection and precollection of tax.
- 144.020. Rate of tax — tickets, notice of sales tax — lease or rental of personal property exempt from tax, when.
- 144.021. Imposition of tax — seller's duties.
- 144.440. Use tax on purchased or leased motor vehicles, trailers, boats and outboard motors — option of lessor, effect of.
- 144.700. Revenue placed in general revenue, exception placement in school district trust fund — payment under protest, procedure, appeal, refund.
- 226.094. Inspector general position established in department of transportation, duties, powers.
- 226.200. State highways and transportation department fund — sources of revenue — expenditures.
- 226.1000. Distribution and use of certain additional tax revenues on fuel and property.
- B. Referendum clause.
- C. Additional tax revenues for certain property not part of total state revenue or an expense of state government.
- D. Decennial referendum required for certain additional tax revenues for transportation, effect of vote.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 142.803, 144.020, 144.021, 144.440, 144.700 and 226.200, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 142.803, 144.020, 144.021, 144.440, 144.700, 226.094, 226.200 and 226.1000, to read as follows:

142.803. IMPOSITION OF TAX ON FUEL, AMOUNT — COLLECTION AND PRECOLLECTION OF TAX. — 1. A tax is levied and imposed on all motor fuel used or consumed in this state as follows:

(1) Motor fuel, seventeen cents per gallon. [Beginning April 1, 2008, the tax rate shall become eleven cents per gallon] **Beginning on the effective date of this act, the motor fuel tax rate shall be twenty-one cents per gallon;**

(2) Alternative fuels, not subject to the decal fees as provided in section 142.869, with a power potential equivalent of motor fuel. In the event alternative fuel, which is not commonly sold or measured by the gallon, is used in motor vehicles on the highways of this state, the director is authorized to assess and collect a tax upon such alternative fuel measured by the nearest power potential equivalent to that of one gallon of regular grade gasoline. The determination by the director of the power potential equivalent of such alternative fuel shall be prima facie correct;

(3) Aviation fuel used in propelling aircraft with reciprocating engines, nine cents per gallon as levied and imposed by section 155.080, RSMo, to be collected as required under this chapter.

2. All taxes, surcharges and fees are imposed upon the ultimate consumer, but are to be precollected as described in this chapter, for the facility and convenience of the consumer. The levy and assessment on other persons as specified in this chapter shall be as agents of this state for the precollection of the tax.

144.020. RATE OF TAX — TICKETS, NOTICE OF SALES TAX — LEASE OR RENTAL OF PERSONAL PROPERTY EXEMPT FROM TAX, WHEN. — 1. A tax is hereby levied and imposed upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state. The rate of tax shall be as follows:

(1) Upon every retail sale in this state of tangible personal property, including but not limited to motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats and outboard motors, a tax equivalent to four **and one-half** percent of the purchase price paid or charged, or in case such sale involves the exchange of property, a tax equivalent to four **and one-half** percent of the consideration paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, except as otherwise provided in section 144.025;

(2) A tax equivalent to four **and one-half** percent of the amount paid for admission and seating accommodations, or fees paid to, or in any place of amusement, entertainment or recreation, games and athletic events;

(3) A tax equivalent to four **and one-half** percent of the basic rate paid or charged on all sales of electricity or electrical current, water and gas, natural or artificial, to domestic, commercial or industrial consumers;

(4) A tax equivalent to four **and one-half** percent on the basic rate paid or charged on all sales of local and long distance telecommunications service to telecommunications subscribers and to others through equipment of telecommunications subscribers for the transmission of messages and conversations and upon the sale, rental or leasing of all equipment or services pertaining or incidental thereto; except that, the payment made by telecommunications subscribers or others, pursuant to section 144.060, and any amounts paid for access to the Internet or interactive computer services shall not be considered as amounts paid for telecommunications services;

(5) A tax equivalent to four **and one-half** percent of the basic rate paid or charged for all sales of services for transmission of messages of telegraph companies;

(6) A tax equivalent to four **and one-half** percent on the amount of sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are regularly served to the public;

(7) A tax equivalent to four **and one-half** percent of the amount paid or charged for intrastate tickets by every person operating a railroad, sleeping car, dining car, express car, boat, airplane and such buses and trucks as are licensed by the division of motor carrier and railroad safety of the department of economic development of Missouri, engaged in the transportation of persons for hire;

(8) A tax equivalent to four **and one-half** percent of the amount paid or charged for rental or lease of tangible personal property, provided that if the lessor or renter of any tangible personal property had previously purchased the property under the conditions of "sale at retail" as defined in subdivision [(8)] (10) of section 144.010 or leased or rented the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor, renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or subrental receipts from that property. The purchase, rental or lease of motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard motors shall be taxed and the tax paid as provided in this section and section 144.070. In no event shall the rental or lease of boats and outboard motors be considered a sale, charge, or fee to, for or in places of amusement, entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to, for, or in such places of amusement, entertainment or recreation. Rental and leased boats or outboard motors shall be taxed under the provisions of the sales tax laws as provided under such laws for motor vehicles and trailers. Tangible personal property which is exempt from the sales or use tax under section 144.030 upon a sale thereof is likewise exempt from the sales or use tax upon the lease or rental thereof.

2. All tickets sold which are sold under the provisions of sections 144.010 to 144.525 which are subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the words "This ticket is subject to a sales tax."

144.021. IMPOSITION OF TAX — SELLER'S DUTIES. — The purpose and intent of sections 144.010 to [144.510] **144.525** is to impose a tax upon the privilege of engaging in the business, in this state, of selling tangible personal property and those services listed in section 144.020. The primary tax burden is placed upon the seller making the taxable sales of property or service and is levied at the rate provided for in section 144.020. Excluding sections 144.070, 144.440 and 144.450, the extent to which a seller is required to collect the tax from the purchaser of the taxable property or service is governed by section 144.285 and in no way affects sections 144.080 and 144.100, which require all sellers to report to the director of revenue their "gross receipts", defined herein to mean the aggregate amount of the sales price of all sales at retail, and remit tax at four **and one-half** percent of their gross receipts.

144.440. USE TAX ON PURCHASED OR LEASED MOTOR VEHICLES, TRAILERS, BOATS AND OUTBOARD MOTORS — OPTION OF LESSOR, EFFECT OF. — 1. In addition to all other taxes now or hereafter levied and imposed upon every person for the privilege of using the highways or waterways of this state, there is hereby levied and imposed a tax equivalent to four **and one-half** percent of the purchase price, as defined in section 144.070, which is paid or charged on new and used motor vehicles, trailers, boats, and outboard motors purchased or acquired for use on the highways or waters of this state which are required to be registered under the laws of the state of Missouri.

2. At the time the owner of any such motor vehicle, trailer, boat, or outboard motor makes application to the director of revenue for an official certificate of title and the registration of the same as otherwise provided by law, he shall present to the director of revenue evidence satisfactory to the director showing the purchase price paid by or charged to the applicant in the acquisition of the motor vehicle, trailer, boat, or outboard motor, or that the motor vehicle, trailer, boat, or outboard motor is not subject to the tax herein provided and, if the motor vehicle, trailer, boat, or outboard motor is subject to the tax herein provided, the applicant shall pay or cause to be paid to the director of revenue the tax provided herein.

3. In the event that the purchase price is unknown or undisclosed, or that the evidence thereof is not satisfactory to the director of revenue, the same shall be fixed by appraisalment by the director.

4. No certificate of title shall be issued for such motor vehicle, trailer, boat, or outboard motor unless the tax for the privilege of using the highways or waters of this state has been paid or the vehicle, trailer, boat, or outboard motor is registered under the provisions of subsection 5 of this section.

5. The owner of any motor vehicle, trailer, boat, or outboard motor which is to be used exclusively for rental or lease purposes may pay the tax due thereon required in section 144.020 at the time of registration or in lieu thereof may pay a use tax as provided in sections 144.010, 144.020, 144.070 and 144.440. A use tax shall be charged and paid on the amount charged for each rental or lease agreement while the motor vehicle, trailer, boat, or outboard motor is domiciled in the state. If the owner elects to pay upon each rental or lease, he shall make an affidavit to that effect in such form as the director of revenue shall require and shall remit the tax due at such times as the director of revenue shall require.

6. In the event that any leasing company which rents or leases motor vehicles, trailers, boats, or outboard motors elects to collect a use tax, all of its lease receipt would be subject to the use tax, regardless of whether or not the leasing company previously paid a sales tax when the vehicle, trailer, boat, or outboard motor was originally purchased.

7. The provisions of this section, and the tax imposed by this section, shall not apply to manufactured homes.

144.700. REVENUE PLACED IN GENERAL REVENUE, EXCEPTION PLACEMENT IN SCHOOL DISTRICT TRUST FUND — PAYMENT UNDER PROTEST, PROCEDURE, APPEAL, REFUND. — 1.

All revenue received by the director of revenue from the tax imposed by sections 144.010 to 144.430 and 144.600 to 144.745, **including any payments of taxes made under protest, shall be deposited in the state general revenue fund** except [that] for:

(1) The revenue derived from the rate of one cent on the dollar of the tax which shall be held and distributed in the manner provided in sections 144.701 and 163.031, RSMo], shall be deposited in the state general revenue fund, including any payments of the taxes made under protest];

(2) Twenty percent of the revenue derived from the rate of one-half cent on the dollar of the tax imposed by this act shall be deposited in the state transportation fund to be used for transportation purposes other than highways, as provided in section 226.225, RSMo. Thirty-three percent of this amount shall be used exclusively for capital improvements, excluding the operational costs, of public transportation facilities or projects authorized by section 226.225, RSMo;

(3) Two percent of the revenue derived from the rate of one-half cent on the dollar of the tax imposed by this act shall be deposited, in an equal amount, to the Missouri qualified fuel ethanol producer incentive fund and to the Missouri qualified biodiesel producer incentive fund, as established in chapter 142, RSMo, if existing. If not existing, then the full two percent shall be deposited in the Missouri qualified fuel ethanol producer incentive fund;

(4) Seventy-eight percent of the revenue derived from the rate of one-half cent on the dollar imposed by this act shall be deposited in the state road fund as established in section 226.220, RSMo; and

(5) All of the revenue derived from the additional sales tax rate of one-half cent on the dollar imposed by this act on all motor vehicles, trailers, motorcycles, mopeds and motortricycles shall be held and distributed in the manner provided by section 226.1000, RSMo.

2. The director of revenue shall keep accurate records of any payment of the tax made under protest. In the event any payment shall be made under protest:

(1) A protest affidavit shall be submitted to the director of revenue within thirty days after the payment is made; and

(2) An appeal shall be taken in the manner provided in section 144.261 from any decision of the director of revenue disallowing the making of the payment under protest or an application shall be filed by a protesting taxpayer with the director of revenue for a stay of the period for appeal on the ground that a case is presently pending in the courts involving the same question, with an agreement by the taxpayer to be bound by the final decision in the pending case.

3. Nothing in this section shall be construed to apply to any refund to which the taxpayer would be entitled under any applicable provision of law.

4. All payments deposited in the state general revenue fund that are made under protest shall be retained in the state treasury if the taxpayer does not prevail. If the taxpayer prevails, then taxes paid under protest shall be refunded to the taxpayer, with all interest income derived therefrom, from funds appropriated by the general assembly for such purpose.

226.094. INSPECTOR GENERAL POSITION ESTABLISHED IN DEPARTMENT OF TRANSPORTATION, DUTIES, POWERS. — 1. The position of inspector general is hereby officially established within the department of transportation. The inspector general shall be subject to appointment by the director and shall report to and be under the general supervision of the director. However, the commission may request the inspector general to perform specific investigations, reviews, or other studies. The inspector general shall file an annual report with the joint committee on transportation oversight. Such report shall be available for public inspection.

2. In addition to any duties which may be assigned to the inspector general by the director, it shall be the duty of the inspector general to:

- (1) Promote economy, efficiency, effectiveness, and public integrity in the administration of the programs and operations of the department;
- (2) Detect and prevent fraud, waste, and abuse in programs and operations;
- (3) Conduct and supervise investigations and reviews relating to department of transportation programs and operations;
- (4) Provide independent and objective assistance to help assure the department is operated in compliance with the constitutions and laws of the United States and the state of Missouri; and
- (5) Keep the commission, the director, and the director's staff fully and currently informed about any problems or deficiencies relating to the administration of department programs and operations and the necessity for and progress of any corrective actions taken.

3. To accomplish the duties of the inspector general, the inspector general may investigate, conduct reviews, or perform audits relating to the use of highway user fees and taxes by the department of transportation, the department of revenue, the office of administration, and the state highway patrol. The accounts and records of the department of transportation, the state highway patrol, the office of administration, the department of revenue and other parties which use or receive taxes or fees derived from highway users as an incident to their use or right to use the highways of this state shall be open to inspection and review by the inspector general, for the purpose of obtaining information necessary in the performance of the duties of the inspector general. The inspector general shall have the power to subpoena witnesses or obtain the production of records when necessary for the performance of the inspector general's duties. The inspector general may also investigate and review any contract entered into by the department of transportation and any other party to determine compliance with federal and state law.

4. To accomplish the duties assigned to the inspector general, the inspector general shall maintain records of all investigations conducted by the inspector general, including any record or document or thing, any summary, writing, complaint, data of any kind, tape or video recordings, electronic transmissions, e-mail, other paper or electronic documents, records, reports, digital recordings, photographs, software programs and software, expense accounts, phone logs, diaries, travel logs, or other things, including originals or copies of any of the above. All such records shall be considered open records pursuant to the provisions contained in section 610.010, RSMo. Any records detained above which are prepared by the inspector general in conjunction with an investigation into a crime or suspected crime, or an investigation into an action that violates a civil law of this state, may be closed within the office of the inspector general during the investigation thereof of the matter until the matter becomes inactive, which shall be defined as an investigation in which no further action will be taken by the inspector general because it has decided not to pursue the case; expiration of the time to file criminal charges or civil suit or ten years after the commission of the act, whichever date earliest occurs; or finality of the conviction of all persons convicted on the basis of the information contained in the investigative report or termination of all civil action involving the information contained in the investigative report, by the exhaustion of or expiration of all rights of appeal by such person. All records not specifically closed by the above provisions shall be deemed to be an open record except as otherwise provided by subdivision (13) of section 610.021, RSMo.

226.200. STATE HIGHWAYS AND TRANSPORTATION DEPARTMENT FUND — SOURCES OF REVENUE — EXPENDITURES. — 1. There is hereby created a "State Highways and Transportation Department Fund" into which shall be paid or transferred all state revenue derived from highway users as an incident to their use or right to use the highways of the state, including all state license fees and taxes upon motor vehicles, trailers, and motor vehicle fuels, and upon,

with respect to, or on the privilege of the manufacture, receipt, storage, distribution, sale or use thereof (excepting the sales tax on motor vehicles and trailers, and all property taxes), and all other revenue received or held for expenditure by or under the department of transportation or the state highways and transportation commission, except:

- (1) Money arising from the sale of bonds;
- (2) Money received from the United States government; or
- (3) Money received for some particular use or uses other than for the payment of principal and interest on outstanding state road bonds.

2. Subject to the limitations of subsection 3 of this section, from said fund shall be paid or credited the cost:

- (1) Of collection of all said state revenue derived from highway users as an incident to their use or right to use the highways of the state;
- (2) Of maintaining the state highways and transportation commission;
- (3) Of maintaining the state transportation department;
- (4) Of any workers' compensation for state transportation department employees;
- (5) Of the share of the transportation department in any retirement program for state employees, only as may be provided by law; and
- (6) Of administering and enforcing any state motor vehicle laws or traffic regulations.

3. [For all future fiscal years,] The total amount of appropriations from the state highways and transportation department fund for all state offices [and], departments **and elective offices, except for the highway patrol; the department of revenue for actual costs of collecting taxes and fees derived from highway users as an incident to their use or right to use the highways of this state; and actual costs incurred by the office of administration for or on behalf of the highway patrol and employees of the department of revenue for actual collection costs as described in this subsection** shall [not exceed the total amount appropriated for such offices and departments from said fund for fiscal year 2001] **be zero beginning the first fiscal year following voter approval of this act and for all fiscal years thereafter. Appropriations to the highway patrol from the state highways and transportation department fund shall be made in accordance with article IV, section 30(b) of the Missouri Constitution. Appropriations allocated from the state highways and transportation department fund to the highway patrol shall only be used by the highway patrol to administer and enforce state motor vehicle laws or traffic regulations. The inspector general, as established in section 226.094, is authorized to conduct an audit of the state highways and transportation department fund to ensure compliance with this section.**

4. The provisions of subsection 3 of this section shall not apply to appropriations from the state highways and transportation department fund to the highways and transportation commission and the state transportation department or to appropriations to the office of administration for department of transportation employee fringe benefits and OASDHI payments, or to appropriations to the department of revenue for motor vehicle fuel tax refunds under chapter 142, RSMo, or to appropriations to the department of revenue for refunds or overpayments or erroneous payments from the state highways and transportation department fund.

5. All interest earned upon the state highways and transportation department fund shall be deposited in and to the credit of such fund.

6. Any balance remaining in said fund after payment of said costs shall be transferred to the state road fund.

[7. Notwithstanding the provisions of subsection 2 of this section to the contrary, any funds raised as a result of increased taxation pursuant to sections 142.025 and 142.372, RSMo, after April 1, 1992, shall not be used for administrative purposes or administrative expenses of the transportation department.]

226.1000. DISTRIBUTION AND USE OF CERTAIN ADDITIONAL TAX REVENUES ON FUEL AND PROPERTY. — 1. One-half of all of the revenue derived from the additional rate of one-half cent on the dollar imposed by this act on all motor vehicles, trailers, motorcycles, mopeds and motortricycles shall be dedicated for highway and transportation use and distributed pursuant to subsection 2 of section 30(b) of article IV of the Missouri Constitution.

2. Beginning on the effective date of this act, all of the remaining revenue derived from the additional sales tax rate of one-half cent on the dollar imposed by this act on all motor vehicles, trailers, motorcycles, mopeds and motortricycles, which is not distributed pursuant to subsection 1 of this section, shall be distributed as follows:

(1) Twenty percent shall be deposited in the state transportation fund to be used for transportation purposes other than highways, as provided in section 226.225, RSMo. Thirty-three percent of this amount shall be used exclusively for capital improvements, excluding the operational costs, of public transportation facilities or projects authorized by section 226.225, RSMo;

(2) Two percent shall be deposited, in an equal amount, to the Missouri qualified fuel ethanol producer incentive fund and to the Missouri qualified biodiesel producer incentive fund, as established in chapter 142, RSMo, if existing. If not existing, then the full two percent shall be deposited in the Missouri qualified fuel ethanol producer incentive fund; and

(3) Seventy-eight percent shall be deposited in the state road fund as established in section 226.220, RSMo.

SECTION B. REFERENDUM CLAUSE. — This act is hereby submitted to the qualified voters of this state for approval or rejection at a special election which is hereby ordered and which shall be held and conducted on the first Tuesday in August, 2002, pursuant to the laws and constitutional provisions of this state applicable to general elections, and this act shall become effective on the first day of January after the provisions of this act have been approved by a majority of the votes cast thereon at such election and not otherwise.

SECTION C. ADDITIONAL TAX REVENUES FOR CERTAIN PROPERTY NOT PART OF TOTAL STATE REVENUE OR AN EXPENSE OF STATE GOVERNMENT. — The additional revenue provided by sections 144.020, 144.021, 144.440, 144.700 and 226.1000 of this act shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of the Missouri Constitution. The expenditure of this revenue shall not be an "expense of state government" under section 20 of article X of the Missouri Constitution.

SECTION D. DECENNIAL REFERENDUM REQUIRED FOR CERTAIN ADDITIONAL TAX REVENUES FOR TRANSPORTATION, EFFECT OF VOTE. — At the general election on the Tuesday next following the first Monday in November, 2012, the secretary of state shall submit to the electors of this state the question "Shall the additional revenues for transportation be renewed and extended?". If a majority of the votes cast thereon is for the affirmative the additional revenues shall be continued. If a majority of the votes cast thereon is for the negative, the rates included in sections 144.020, 144.021, 144.440, 144.700 and 226.1000 directing deposit and use of revenues pursuant to this act shall expire on July first following the election and return to the provisions in effect on January 1, 2002. If a majority of the votes cast thereon is for the

negative, the motor fuel tax rate provided for in section 142.803 shall expire on July first following the election and return to seventeen cents per gallon.

Referendum — Subject to Voter Approval August 6, 2002

SB 918 [SCS SB 918]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Exempts displays of the U.S. flag from statutes and ordinances.

AN ACT to amend chapter 71, RSMo, by adding thereto one new section relating to the display of the United States flag.

SECTION

- A. Enacting clause.
- 71.286. Display of the United States flag, political subdivisions not to regulate.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 71, RSMo, is amended by adding thereto one new section, to be known as section 71.286, to read as follows:

71.286. DISPLAY OF THE UNITED STATES FLAG, POLITICAL SUBDIVISIONS NOT TO REGULATE. — Notwithstanding any other provision of the law to the contrary, no state law, city, town or village ordinance shall regulate the exhibition of a properly displayed United States flag. For the purposes of this section, the term "properly displayed" shall mean that the flag contains no additional design or embellishment and is displayed consistent with the provisions of Title 4 U.S.C. Sections 1-10, pursuant to the normally accepted guidelines for the display of the United States flag.

Approved July 3, 2002

SB 923 [CCS HS HCS SS SCS SB 923, 828, 876, 694 & 736]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Provides foster parent rights and responsibilities.

AN ACT to repeal sections 28.160, 135.327, 191.227, 191.233, 191.925, 192.016, 210.001, 210.115, 210.145, 210.201, 210.906, 211.031, 211.181, 294.011, 294.024, 294.030, 294.043, 294.060, 294.090, 294.121, 294.141, 452.402, 453.030, 454.606, 454.609, 454.615, 454.618, 454.627 and 454.700, RSMo, and to enact in lieu thereof thirty-two new sections relating to children and families, with penalty provisions.

SECTION

- A. Enacting clause.
- 28.160. State entitled to certain fees — technology trust fund account established — additional fee, notary commissions — appropriation of funds, purpose — fees not collected, when.
- 135.327. Special needs child adoption tax credit — nonrecurring adoption expenses, amount — business entities tax credit, amount — assignment of tax credit, when.
- 191.227. Medical records to be released to patient, when, exception — fee permitted, amount — liability of provider limited — annual handling fee adjustment.
- 191.925. Screening for hearing loss, infants, when — procedures used — exemptions — information provided, by whom — no liability, when.
- 192.016. Putative father registry.
- 208.344. Welfare reform, progress report to be submitted annually by division, content — expiration.
- 210.001. Department of social services to meet needs of homeless, dependent and neglected children — only certain regional child assessment centers funded.
- 210.115. Reports of abuse, neglect, and under age eighteen deaths — persons required to report — deaths required to be reported to the division or child fatality review panel, when — report made to another state, when.
- 210.145. Telephone hot line for reports on child abuse — division of family services, duties, protocols, law enforcement contacted immediately, investigation within twenty-four hours, exception — chief investigator named — admissibility of reports in custody cases.
- 210.201. Definitions.
- 210.566. Foster parents' bill of rights.
- 210.906. Registration form, contents — violation, penalty — fees — voluntary registration permitted, when.
- 210.1007. List of children's products to be furnished to all child-care facilities by department — disposal of unsafe products — inspections by department — rulemaking authority.
- 211.031. Juvenile court to have exclusive jurisdiction, when — exceptions.
- 211.181. Order for disposition or treatment of child — suspension of order and probation granted, when — community organizations, immunity from liability, when — length of commitment may be set forth — assessments, deposits, use.
- 294.011. Definitions.
- 294.024. Employment of children, work certificate required.
- 294.030. Hours of work for minors.
- 294.043. Employment in street occupation prohibited, exceptions.
- 294.060. Work certificates or work permits transmitted to employer, return to officer, reissue, record.
- 294.090. Director of division of labor standards to enforce — rights, duties — record keeping required — cancellation of work certificate or work permit.
- 294.121. Administrative penalties, civil damages, grounds, duties of director, notice, judicial review.
- 294.141. Notice of transmissions by division.
- 352.400. Ministers, duty to report child abuse and neglect — definitions — designation of an agent.
- 452.402. Grandparent's visitation rights granted, when, terminated, when — guardian ad litem appointed, when — attorney fees and costs assessed, when.
- 453.030. Approval of court required — how obtained, consent of child and parent required, when — validity of consent — withdrawal of consent — forms, developed by department, contents — court appointment of attorney, when.
- 454.606. Notice to employer or union, National Medical Support Notice to be used — division duties.
- 454.609. Notice to obligor, contents — grounds for contesting, hearing.
- 454.615. Employer or union to transfer order to group health plan — duties of plan administrator.
- 454.618. Enrolling of child as eligible dependent in health benefit plan, withholding of contributions — provision of information and authorization — denial or restriction of coverage, prohibited, when.
- 454.627. Termination of obligor's employment or coverage, notification of obligee.
- 454.700. Insurer to permit enrollment, when — duties of employer — garnishment of income permitted, when.
- 191.233. Medical records, fee increased or decreased, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 28.160, 135.327, 191.227, 191.233, 191.925, 192.016, 210.001, 210.115, 210.145, 210.201, 210.906, 211.031, 211.181, 294.011, 294.024, 294.030, 294.043, 294.060, 294.090, 294.121, 294.141, 452.402, 453.030, 454.606, 454.609, 454.615, 454.618, 454.627 and 454.700, RSMo, are repealed and thirty-two new sections enacted in lieu thereof, to be known as sections 28.160, 135.327, 191.227, 191.925, 192.016, 208.344, 210.001, 210.115, 210.145, 210.201, 210.566, 210.906, 210.1007, 211.031, 211.181, 294.011, 294.024, 294.030, 294.043, 294.060, 294.090, 294.121, 294.141, 352.400, 452.402, 453.030, 454.606, 454.609, 454.615, 454.618, 454.627 and 454.700, to read as follows:

28.160. STATE ENTITLED TO CERTAIN FEES — TECHNOLOGY TRUST FUND ACCOUNT ESTABLISHED — ADDITIONAL FEE, NOTARY COMMISSIONS — APPROPRIATION OF FUNDS, PURPOSE — FEES NOT COLLECTED, WHEN. — 1. The state shall be entitled to fees for services to be rendered by the secretary of state as follows:

For issuing commission to notary public	\$15.00
For countersigning and sealing certificates of official character	10.00
For all other certificates	5.00
For copying archive and state library records, papers or documents, for each page 8 ½ x 14 inches and smaller, not more than	.10
For duplicating microfilm, for each roll	15.00
For copying all other records, papers or documents, for each page 8 ½ x 14 inches and smaller, not more than[.]	.10
For certifying copies of records and papers or documents	5.00
For causing service of process to be made	10.00
For electronic telephone transmittal, per page	2.00

2. There is hereby established the "Secretary of State's Technology Trust Fund Account" which shall be administered by the state treasurer. All yield, interest, income, increment, or gain received from time deposit of moneys in the state treasury to the credit of the secretary of state's technology trust fund account shall be credited by the state treasurer to the account. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of a biennium exceeds five million dollars. In any such biennium the amount in the fund in excess of five million dollars shall be transferred to general revenue.

3. The secretary of state may collect an additional fee often dollars for the issuance of new and renewal notary commissions which shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account.

4. The secretary of state may ask the general assembly to appropriate funds from the technology trust fund for the purposes of establishing, procuring, developing, modernizing and maintaining:

- (1) An electronic data processing system and programs capable of maintaining a centralized database of all registered voters in the state;
- (2) Library services offered to the citizens of this state;
- (3) Administrative rules services, equipment and functions;
- (4) Services, equipment and functions relating to securities;
- (5) Services, equipment and functions relating to corporations and business organizations;
- (6) Services, equipment and functions relating to the Uniform Commercial Code;
- (7) Services, equipment and functions relating to archives; and
- (8) Services, equipment and functions relating to record services.

5. Notwithstanding any provision of this section to the contrary, the secretary of state shall not collect fees, for processing apostilles, certifications and authentications prior to the placement of a child for adoption, in excess of one hundred dollars per child per adoption, or per multiple children to be adopted at the same time.

135.327. SPECIAL NEEDS CHILD ADOPTION TAX CREDIT — NONRECURRING ADOPTION EXPENSES, AMOUNT — BUSINESS ENTITIES TAX CREDIT, AMOUNT — ASSIGNMENT OF TAX CREDIT, WHEN. — 1. Any person residing in this state who legally adopts a special needs child on or after January 1, 1988, and before January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may

be applied to taxes due under chapter 143, RSMo. Any business entity providing funds to an employee to enable that employee to legally adopt a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

2. Any person residing in this state who proceeds in good faith with the adoption of a special needs child on or after January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under chapter 143, RSMo. Any business entity providing funds to an employee to enable that employee to proceed in good faith with the adoption of a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

3. Individuals and business entities may claim a tax credit for their total nonrecurring adoption expenses in each year that the expenses are incurred. A claim for fifty percent of the credit shall be allowed when the child is placed in the home. A claim for the remaining fifty percent shall be allowed when the adoption is final. The total of these tax credits shall not exceed the maximum limit of ten thousand dollars per child. The cumulative amount of tax credits which may be claimed by taxpayers for nonrecurring adoption expenses in any one fiscal year shall not exceed two million dollars.

4. Notwithstanding any provision of law to the contrary, any individual or business entity may assign, transfer or sell tax credits allowed in this section. Any sale of tax credits claimed pursuant to this section [to a for-profit entity] shall be at a discount rate of seventy-five percent or greater of the amount sold.

191.227. MEDICAL RECORDS TO BE RELEASED TO PATIENT, WHEN, EXCEPTION — FEE PERMITTED, AMOUNT — LIABILITY OF PROVIDER LIMITED — ANNUAL HANDLING FEE ADJUSTMENT. — 1. All physicians, chiropractors, hospitals, dentists, and other duly licensed practitioners in this state, herein called "providers", shall, upon written request of a patient, or guardian or legally authorized representative of a patient, furnish a copy of his record of that patient's health history and treatment rendered to the person submitting a written request, except that such right shall be limited to access consistent with the patient's condition and sound therapeutic treatment as determined by the provider. Beginning August 28, 1994, such record shall be furnished within a reasonable time of the receipt of the request therefor and upon payment of a handling fee of fifteen dollars plus a fee of thirty-five cents per page for copies of documents made on a standard photocopy machine.

2. Notwithstanding provisions of this section to the contrary, providers may charge for the reasonable cost of all duplications of medical record material or information which cannot routinely be copied or duplicated on a standard commercial photocopy machine.

3. The transfer of the patient's record done in good faith shall not render the provider liable to the patient or any other person for any consequences which resulted or may result from disclosure of the patient's record as required by this section.

4. **Effective February first of each year, the handling fee and per page fee listed in subsection 1 of this section shall be increased or decreased annually based on the annual percentage change in the unadjusted, U.S. city average, annual average inflation rate of the medical care component of the Consumer Price Index for all urban consumers (CPI-U). The current reference base of the index, as published by the Bureau of Labor Statistics of the United States Department of Labor, shall be used as the reference base. For purposes of this subsection, the annual average inflation rate shall be based on a**

twelve-month calendar year beginning in January and ending in December of each preceding calendar year. The department of health and senior services shall report the annual adjustment and the adjusted handling and per page fees on the department's Internet website by February first of each year.

191.925. SCREENING FOR HEARING LOSS, INFANTS, WHEN — PROCEDURES USED — EXEMPTIONS — INFORMATION PROVIDED, BY WHOM — NO LIABILITY, WHEN. — 1. Effective January 1, 2002, every infant born in this state shall be screened for hearing loss in accordance with the provisions of sections [191.225] **191.925** to 191.937 and section 376.685, RSMo.

2. The screening procedure shall include the use of at least one of the following physiological technologies:

- (1) Automated or diagnostic auditory brainstem response (ABR);
- (2) Otoacoustic emissions (OAE); or
- (3) Other technologies approved by the department of health and senior services.

3. Every newborn delivered on or after January 1, 2002, in an ambulatory surgical center or hospital shall be screened for hearing loss prior to discharge of the infant from the facility. **Any facility that transfers a newborn for further acute care prior to completion of the newborn hearing screening shall notify the receiving facility of the status of the newborn hearing screening. The receiving facility shall be responsible for the completion of the newborn hearing screening.** Such facilities shall report the screening results on all newborns to the parents or guardian of the newborn, and the department of health and senior services in a manner prescribed by the department.

4. If a newborn is delivered in a place other than the facilities listed in subsection 3 of this section, the physician or person who professionally undertakes the pediatric care of the infant shall ensure that the newborn hearing screening is performed within three months of the date of the infant's birth. Such physicians and persons shall report the screening results on all newborns to the parents or guardian of the newborn, and the department of health and senior services in a manner prescribed by the department.

5. The provisions of this section shall not apply if the parents of the newborn or infant object to such testing on the grounds that such tests conflict with their religious tenets and practices.

6. As provided in subsection 5 of this section, the parent of any child who fails to have the hearing screening test administered after notice of the requirement for such test shall have such refusal documented in writing. Such physicians, persons or administrators shall obtain the written refusal and make such refusal part of the medical record of the infant, and shall report such refusal to the department of health and senior services in a manner prescribed by the department.

7. The physician or person who professionally undertakes the pediatric care of the newborn, and administrators of ambulatory surgical centers or hospitals shall provide to the parents or guardians of newborns a written packet of educational information developed and supplied by the department of health and senior services describing the screening, how it is conducted, the nature of the hearing loss, and the possible consequences of treatment and nontreatment for hearing loss prior to administering the screening.

8. All facilities or persons described in subsections 3 and 4 of this section who voluntarily provide hearing screening to newborns prior to January 1, 2002, shall report such screening results to the department of health in a manner prescribed by the department.

9. All facilities or persons described in subsections 3 and 4 of this section shall provide the parents or guardians of newborns who fail the hearing screening with educational materials that:

- (1) Communicate the importance of obtaining further hearing screening or diagnostic audiological assessment to confirm or rule out hearing loss;

(2) Identify community resources available to provide rescreening and diagnostic audiological assessments; and

(3) Provide other information as prescribed by the department of health and senior services.

10. Any person who acts in good faith in complying with the provisions of this section by reporting the newborn hearing screening results to the department of health and senior services shall not be civilly or criminally liable for furnishing the information required by this section.

11. The department of health and senior services shall provide audiological and administrative technical support to facilities and persons implementing the requirements of this section, including, but not limited to, assistance in:

(1) Selecting state-of-the-art newborn hearing screening equipment;

(2) Developing and implementing newborn hearing screening procedures that result in appropriate failure rates;

(3) Developing and implementing training for individuals administering screening procedures;

(4) Developing and distributing educational materials for families;

(5) Identifying community resources for delivery of rescreening and pediatric audiological assessment services; and

(6) Implementing reporting requirements.

Such audiological technical support shall be provided by individuals qualified to administer newborn and infant hearing screening, rescreening and diagnostic audiological assessment.

192.016. PUTATIVE FATHER REGISTRY. — 1. The department of health and senior services shall establish a putative father registry which shall record the names and addresses of:

(1) Any person adjudicated by a court of this state to be the father of a child born out of wedlock;

(2) Any person who has filed with the registry before or after the birth of a child out of wedlock, a notice of intent to claim paternity of the child;

(3) Any person adjudicated by a court of another state or territory of the United States to be the father of an out-of-wedlock child, where a certified copy of the court order has been filed with the registry by such person or any other person.

2. A person filing a notice of intent to claim paternity of a child or an acknowledgment of paternity shall file the acknowledgment affidavit form developed by the state registrar which shall include the minimum requirements prescribed by the Secretary of the United States Department of Health and Human Services pursuant to 42 U.S.C. Section [652(2)(7)] **652 (a)(7)**.

3. A person filing a notice of intent to claim paternity of a child shall notify the registry of any change of address.

4. A person who has filed a notice of intent to claim paternity may at any time revoke a notice of intent to claim paternity previously filed therewith and, upon receipt of such notification by the registry, the revoked notice of intent to claim paternity shall be deemed a nullity nunc pro tunc.

5. An unrevoked notice of intent to claim paternity of a child may be introduced in evidence by any party, other than the person who filed such notice, in any proceeding in which such fact may be relevant.

6. The department shall, upon request and within two business days of such request, provide the names and addresses of persons listed with the registry to any court or authorized agency, or entity or person named in section 453.014, RSMo, and such information shall not be divulged to any other person, except upon order of a court for good cause shown.

7. The department of health and senior services shall:

(1) Prepare forms for registration of paternity and an application for search of the putative father registry;

(2) Produce and distribute a pamphlet or publication informing the public about the putative father registry, including the procedures for voluntary acknowledgment of paternity, the conse-

quences of acknowledgment and failure to acknowledge paternity pursuant to section 453.010, RSMo, and the address of the putative father registry. Such pamphlet or publication shall be made available for distribution at all offices of the department of health and senior services. The department shall also provide such pamphlets or publications to the department of social services, hospitals, libraries, medical clinics, schools, universities, and other providers of child-related services upon request;

(3) Provide information to the public at large by way of general public service announcements, or other ways to deliver information to the public about the putative father registry and its services.

208.344. WELFARE REFORM, PROGRESS REPORT TO BE SUBMITTED ANNUALLY BY DIVISION, CONTENT — EXPIRATION. — 1. By December 1, 2002, and annually thereafter, the division of family services shall submit a report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives regarding the progress of welfare reform in Missouri. The report shall include, but not be limited to, current statistics and recommendations regarding:

(1) Individuals who have successfully left welfare and employment of such individuals;

(2) Individuals who remain on or have returned to welfare; and

(3) Benefits of welfare reform realized by families, employers, and the state.

2. The provisions of this section shall expire on December 31, 2007.

210.001. DEPARTMENT OF SOCIAL SERVICES TO MEET NEEDS OF HOMELESS, DEPENDENT AND NEGLECTED CHILDREN — ONLY CERTAIN REGIONAL CHILD ASSESSMENT CENTERS FUNDED. — 1. The department of social services shall address the needs of homeless, dependent and neglected children in the supervision and custody of the division of family services and to their families-in-conflict by:

(1) Serving children and families as a unit in the least restrictive setting available and in close proximity to the family home, consistent with the best interests and special needs of the child;

(2) Insuring that appropriate social services are provided to the family unit both prior to the removal of the child from the home and after family reunification;

(3) Developing and implementing preventive and early intervention social services which have demonstrated the ability to delay or reduce the need for out-of-home placements and ameliorate problems before they become chronic.

2. The department of social services shall fund only regional child assessment centers known as:

(1) The St. Louis City child assessment center;

(2) The St. Louis County child assessment center;

(3) The Jackson County child assessment center;

(4) The Buchanan County child assessment center;

(5) The Greene County [and Lakes Area] child assessment center;

(6) The Boone County child assessment center;

(7) The Joplin child assessment center;

(8) The St. Charles County child assessment center;

(9) The Jefferson County child assessment center;

(10) The Pettis County child assessment center; [and]

(11) The southeast Missouri child assessment center;

(12) The Camden County child assessment center;

(13) The Clay-Platte County child assessment center; and

(14) The Lakes Area child assessment center.

210.115. REPORTS OF ABUSE, NEGLECT, AND UNDER AGE EIGHTEEN DEATHS — PERSONS REQUIRED TO REPORT — DEATHS REQUIRED TO BE REPORTED TO THE DIVISION OR CHILD FATALITY REVIEW PANEL, WHEN — REPORT MADE TO ANOTHER STATE, WHEN.

— 1. When any physician, medical examiner, coroner, dentist, chiropractor, optometrist, podiatrist, resident, intern, nurse, hospital or clinic personnel that are engaged in the examination, care, treatment or research of persons, and any other health practitioner, psychologist, mental health professional, social worker, day care center worker or other child-care worker, juvenile officer, probation or parole officer, jail or detention center personnel, teacher, principal or other school official, **minister as provided by section 352.400, RSMo**, Christian Science practitioner, peace officer or law enforcement official, or other person with responsibility for the care of children has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, that person shall immediately report or cause a report to be made to the division in accordance with the provisions of sections 210.109 to 210.183. As used in this section, the term "abuse" is not limited to abuse inflicted by a person responsible for the child's care, custody and control as specified in section 210.110, but shall also include abuse inflicted by any other person.

2. Whenever such person is required to report pursuant to sections 210.109 to 210.183 in an official capacity as a staff member of a medical institution, school facility, or other agency, whether public or private, the person in charge or a designated agent shall be notified immediately. The person in charge or a designated agent shall then become responsible for immediately making or causing such report to be made to the division. Nothing in this section, however, is meant to preclude any person from reporting abuse or neglect.

3. Notwithstanding any other provision of sections 210.109 to 210.183, any child who does not receive specified medical treatment by reason of the legitimate practice of the religious belief of the child's parents, guardian, or others legally responsible for the child, for that reason alone, shall not be found to be an abused or neglected child, and such parents, guardian or other persons legally responsible for the child shall not be entered into the central registry. However, the division may accept reports concerning such a child and may subsequently investigate or conduct a family assessment as a result of that report. Such an exception shall not limit the administrative or judicial authority of the state to ensure that medical services are provided to the child when the child's health requires it.

4. In addition to those persons and officials required to report actual or suspected abuse or neglect, any other person may report in accordance with sections 210.109 to 210.183 if such person has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect.

5. Any person or official required to report pursuant to this section, including employees of the division, who has probable cause to suspect that a child who is or may be under the age of eighteen, who is eligible to receive a certificate of live birth, has died shall report that fact to the appropriate medical examiner or coroner. If, upon review of the circumstances and medical information, the medical examiner or coroner determines that the child died of natural causes while under medical care for an established natural disease, the coroner, medical examiner or physician shall notify the division of the child's death and that the child's attending physician shall be signing the death certificate. In all other cases, the medical examiner or coroner shall accept the report for investigation, shall immediately notify the division of the child's death as required in section 58.452, RSMo, and shall report the findings to the child fatality review panel established pursuant to section 210.192.

6. Any person or individual required to report may also report the suspicion of abuse or neglect to any law enforcement agency or juvenile office. Such report shall not, however, take the place of reporting or causing a report to be made to the division.

7. If an individual required to report suspected instances of abuse or neglect pursuant to this section has reason to believe that the victim of such abuse or neglect is a resident of another state or was injured as a result of an act which occurred in another state, the person required to report such abuse or neglect may, in lieu of reporting to the Missouri division of family services, make such a report to the child protection agency of the other state with the authority to receive such reports pursuant to the laws of such other state. If such agency accepts the report, no report is required to be made, but may be made, to the Missouri division of family services.

210.145. TELEPHONE HOT LINE FOR REPORTS ON CHILD ABUSE —DIVISION OF FAMILY SERVICES, DUTIES, PROTOCOLS, LAW ENFORCEMENT CONTACTED IMMEDIATELY, INVESTIGATION WITHIN TWENTY-FOUR HOURS, EXCEPTION —CHIEF INVESTIGATOR NAMED — ADMISSIBILITY OF REPORTS IN CUSTODY CASES. — 1. The division shall establish and maintain an information system operating at all times, capable of receiving and maintaining reports. This information system shall have the ability to receive reports over a single, statewide toll-free number. Such information system shall maintain the results of all investigations, family assessments and services, and other relevant information.

2. Upon receipt of a report, the division shall immediately communicate such report to its appropriate local office and any relevant information as may be contained in the information system. The local division staff shall determine, through the use of protocols developed by the division, whether an investigation or the family assessment and services approach should be used to respond to the allegation. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child.

3. The local office shall contact the appropriate law enforcement agency immediately upon receipt of a report which division personnel determine merits an investigation, or, which, if true, would constitute a suspected violation of any of the following: section 565.020, 565.021, 565.023, 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crime under chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025, 573.037 or 573.045, RSMo, or an attempt to commit any such crimes. The local office shall provide such agency with a detailed description of the report received. In such cases the local division office shall request the assistance of the local law enforcement agency in all aspects of the investigation of the complaint. The appropriate law enforcement agency shall either assist the division in the investigation or provide the division, within twenty-four hours, an explanation in writing detailing the reasons why it is unable to assist.

4. The local office of the division shall cause an investigation or family assessment and services approach to be initiated immediately or no later than within twenty-four hours of receipt of the report from the division, except in cases where the sole basis for the report is educational neglect. If the report indicates that educational neglect is the only complaint and there is no suspicion of other neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the report. If the report indicates the child is in danger of serious physical harm or threat to life, an investigation shall include direct observation of the subject child within twenty-four hours of the receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct observation. **If the parents of the child are not the alleged abusers, the parents of the child must be notified prior to the child being interviewed by the division. The division shall not meet with the child in any location where abuse of such child is alleged to have occurred.** When the child is reported absent from the residence, the location and the well-being of the child shall be verified.

5. The director of the division shall name at least one chief investigator for each local division office, who shall direct the division response on any case involving a second or

subsequent incident regarding the same subject child or perpetrator. The duties of a chief investigator shall include verification of direct observation of the subject child by the division and shall ensure information regarding the status of an investigation is provided to the public school district liaison. The public school district liaison shall develop protocol in conjunction with the chief investigator to ensure information regarding an investigation is shared with appropriate school personnel. The [public school district liaison shall be designated by the superintendent of each school district] **superintendent of each school district shall designate a specific person or persons to act as the public school district liaison.** Should the subject child attend a nonpublic school the chief investigator shall notify the school principal of the investigation. **Upon notification of an investigation, all information received by the public school district liaison or the school shall be subject to the provisions of the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34 C.F.R., Part 99.**

6. The investigation shall include but not be limited to the nature, extent, and cause of the abuse or neglect; the identity and age of the person responsible for the abuse or neglect; the names and conditions of other children in the home, if any; the home environment and the relationship of the subject child to the parents or other persons responsible for the child's care; any indication of incidents of physical violence against any other household or family member; and other pertinent data.

7. When a report has been made by a person required to report under section 210.115, the division shall contact the person who made such report within forty-eight hours of the receipt of the report in order to ensure that full information has been received and to obtain any additional information or medical records, or both, that may be pertinent.

8. Upon completion of the investigation, if the division suspects that the report was made maliciously or for the purpose of harassment, the division shall refer the report and any evidence of malice or harassment to the local prosecuting or circuit attorney.

9. Multidisciplinary teams shall be used whenever conducting the investigation as determined by the division in conjunction with local law enforcement. Multidisciplinary teams shall be used in providing protective or preventive social services, including the services of law enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and other agencies, both public and private.

10. If the appropriate local division personnel determine after an investigation has begun that completing an investigation is not appropriate, the division shall conduct a family assessment and services approach. The division shall provide written notification to local law enforcement prior to terminating any investigative process. The reason for the termination of the investigative process shall be documented in the record of the division and the written notification submitted to local law enforcement. Such notification shall not preclude nor prevent any investigation by law enforcement.

11. If the appropriate local division personnel determines to use a family assessment and services approach, the division shall:

(1) Assess any service needs of the family. The assessment of risk and service needs shall be based on information gathered from the family and other sources;

(2) Provide services which are voluntary and time-limited unless it is determined by the division based on the assessment of risk that there will be a high risk of abuse or neglect if the family refuses to accept the services. The division shall identify services for families where it is determined that the child is at high risk of future abuse or neglect. The division shall thoroughly document in the record its attempt to provide voluntary services and the reasons these services are important to reduce the risk of future abuse or neglect to the child. If the family continues to refuse voluntary services or the child needs to be protected, the division may commence an investigation;

(3) Commence an immediate investigation if at any time during the family assessment and services approach the division determines that an investigation, as delineated in sections 210.109

to 210.183, is required. The division staff who have conducted the assessment may remain involved in the provision of services to the child and family;

(4) Document at the time the case is closed, the outcome of the family assessment and services approach, any service provided and the removal of risk to the child, if it existed.

12. Within thirty days of an oral report of abuse or neglect, the local office shall update the information in the information system. The information system shall contain, at a minimum, the determination made by the division as a result of the investigation, identifying information on the subjects of the report, those responsible for the care of the subject child and other relevant dispositional information. The division shall complete all investigations within thirty days, unless good cause for the failure to complete the investigation is documented in the information system. If the investigation is not completed within thirty days, the information system shall be updated at regular intervals and upon the completion of the investigation. The information in the information system shall be updated to reflect any subsequent findings, including any changes to the findings based on an administrative or judicial hearing on the matter.

13. A person required to report under section 210.115 to the division shall be informed by the division of his right to obtain information concerning the disposition of his or her report. Such person shall receive, from the local office, if requested, information on the general disposition of his or her report. A person required to report to the division pursuant to section 210.115 may receive, if requested, findings and information concerning the case. Such release of information shall be at the discretion of the director based upon a review of the mandated reporter's ability to assist in protecting the child or the potential harm to the child or other children within the family. The local office shall respond to the request within forty-five days. The findings shall be made available to the mandated reporter within five days of the outcome of the investigation.

14. In any judicial proceeding involving the custody of a child the fact that a report may have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However, nothing in this subsection shall prohibit the introduction of evidence from independent sources to support the allegations that may have caused a report to have been made.

15. **In any judicial proceeding involving the custody of a child where the court determines that the child is in need of services pursuant to subdivision (d) of subsection 1 of section 211.031, RSMo, and has taken jurisdiction, the child's parent, guardian or custodian shall not be entered into the registry.**

16. The division of family services is hereby granted the authority to promulgate rules and regulations pursuant to the provisions of section 207.021, RSMo, and chapter 536, RSMo, to carry out the provisions of sections 210.109 to 210.183.

[16.] 17. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

210.201. DEFINITIONS. — As used in sections 210.201 to 210.257, the following terms mean:

- (1) "Child", an individual who is under the age of seventeen;
- (2) "Child care facility", a house or other place conducted or maintained by any person who advertises or holds himself out as providing care for more than four children during the daytime, for compensation or otherwise, except those operated by a school system or in connection with a business establishment **which provides child care** as a convenience for its customers **or its employees for no more than four hours per day**, but a child care facility shall not include any

private or religious organization elementary or secondary school, a religious organization academic preschool or kindergarten for four-and five-year-old children, a home school, as defined in section 167.031, RSMo, a weekly Sunday or Sabbath school, a vacation Bible school or child care made available while the parents or guardians are attending worship services or other meetings and activities conducted or sponsored by a religious organization;

(3) "Person", any person, firm, corporation, association, institution or other incorporated or unincorporated organization;

(4) "Religious organization", a church, synagogue or mosque; an entity that has or would qualify for federal tax exempt status as a nonprofit religious organization under section 501(c) of the Internal Revenue Code; or an entity whose real estate on which the child care facility is located is exempt from taxation because it is used for religious purposes.

210.566. FOSTER PARENTS' BILL OF RIGHTS. — 1. The division of family services and its contractors shall treat foster parents with courtesy, respect and consideration. Foster parents shall treat the children in their care, the child's birth family and members of the child welfare team with courtesy, respect and consideration.

2. (1) The division of family services and its contractors shall provide foster parents with training, pre-service and in-service, and support. The division of family services and its contractors shall share all pertinent information about the child and the child's family, including but not limited to, the case plan with the foster parents to assist in determining if a child would be a proper placement. The division of family services and its contractors shall inform the foster parents of issues relative to the child that may jeopardize the health or safety of the foster family. The division of family services and its contractors shall arrange pre-placement visits, except in emergencies. The foster parents may ask questions about the child's case plan, encourage a placement or refuse a placement without reprisal from the caseworker or agency. After a placement, the division of family services shall update the foster parents as new information about the child is gathered. Foster parents shall be informed of upcoming meetings and staffings, and shall be allowed to participate, consistent with section 210.761. The division of family services shall establish reasonably accessible respite care for children in foster care for short periods of time, jointly determined by foster parents and the child's caseworker pursuant to section 210.545.

(2) Foster parents shall treat all information received from the division of family services about the child and the child's family as confidential. Foster parents may share information they may learn about the child and the child's family with the caseworker and other members of the child welfare team. Recognizing that placement changes are difficult for children, foster parents shall seek all necessary information, and participate in pre-placement visits, before deciding whether to accept a child for placement. Foster parents shall follow all procedures defined by the division of family services for requesting and using respite care.

3. (1) Foster parents shall make decisions about the daily living concerns of the child, and shall be permitted to continue the practice of their own family values and routines while respecting the child's cultural heritage. All discipline shall be consistent with state laws and regulations. The division of family services shall allow foster parents to help plan visitation between the child and the child's biological family.

(2) Foster parents shall provide care that is respectful of the child's cultural identity and needs. Foster parents shall recognize that the purpose of discipline is to teach and direct the behavior of the child, and ensure that it is administered in a humane and sensitive manner. Recognizing that visitation with family members is an important right, foster parents shall be flexible and cooperative in regard to family visits.

4. (1) Consistent with state laws and regulations, the state may provide, upon request by the foster parents, information about a child's progress after the child leaves foster

care. Except in emergencies, foster parents shall be given advance notice consistent with division policy, and a written statement of the reasons before a child is removed from their care. If a child re-enters the foster care system, the child's foster parents shall be considered as a placement option. If a child becomes free for adoption while in foster care, the child's foster family shall be given preferential consideration as adoptive parents consistent with section 453.070, RSMo.

(2) Confidentiality rights of the child and the child's parents shall be respected and maintained. Foster parents shall inform the child's caseworker of their interest if a child re-enters the system. If a foster child becomes free for adoption and the foster parents desire to adopt the child, they shall inform the caseworker in a timely manner. If they do not choose to pursue adoption, foster parents shall make every effort to support and encourage the child's placement in a permanent home. When requesting removal of a child from their home, foster parents shall give reasonable advance notice, consistent with division policy, to the child's caseworker, except in emergency situations.

5. (1) Foster parents shall be informed by the court in a timely manner of all court hearings pertaining to a child in their care, and informed of their right to attend and participate, consistent with section 211.464, RSMo.

(2) Foster parents shall share any concerns regarding the case plan for a child in their care with the child's caseworker, as well as other members of the child welfare team, in a timely manner.

6. Foster parents shall have timely access to the child placement agency's appeals process, and shall be free from acts of retaliation when exercising the right to appeal.

7. Foster parents shall know and follow the policies of the division of family services, including the appeals procedure.

8. For purposes of this section, "foster parent" means a resource family providing care of children in state custody.

210.906. REGISTRATION FORM, CONTENTS — VIOLATION, PENALTY — FEES — VOLUNTARY REGISTRATION PERMITTED, WHEN. — 1. Every child-care worker or elder-care worker hired on or after January 1, 2001, or personal-care worker hired on or after January 1, 2002, shall complete a registration form provided by the department. The department shall make such forms available no later than January 1, 2001, and may, by rule, determine the specific content of such form, but every form shall:

- (1) Request the valid Social Security number of the applicant;
- (2) Include information on the person's right to appeal the information contained in the registry pursuant to section 210.912;
- (3) Contain the signed consent of the applicant for the background checks required pursuant to this section; and
- (4) Contain the signed consent for the release of information contained in the background check for employment purposes only.

2. Every child-care worker or elder-care worker hired on or after January 1, 2001, and every personal-care worker hired on or after January 1, 2002, shall complete a registration form within fifteen days of the beginning of such person's employment. Any person employed as a child-care, elder-care or personal-care worker who fails to submit a completed registration form to the department of health and senior services as required by sections 210.900 to 210.936 without good cause, as determined by the department, is guilty of a class B misdemeanor.

3. The costs of the criminal background check may be paid by the individual applicant, or by the provider if the applicant is so employed, or for those applicants receiving public assistance, by the state through the terms of the self-sufficiency pact pursuant to section 208.325, RSMo. Any moneys remitted to the patrol for the costs of the criminal background check shall be deposited to the credit of the criminal record system fund as required by section 43.530, RSMo.

4. Any person licensed pursuant to sections 210.481 to 210.565 shall be automatically registered in the family care safety registry at no additional cost other than the costs required pursuant to sections 210.481 to 210.565.

5. Any person not required to register pursuant to the provisions of sections 210.900 to 210.936 may also be included in the registry if such person voluntarily applies to the department for registration and meets the requirements of this section and section 210.909, including submitting to the background checks in subsection 1 of section 210.909.

[5.] 6. The provisions of sections 210.900 to 210.936 shall not extend to related child care, related elder care or related personal care.

210.1007. LIST OF CHILDREN'S PRODUCTS TO BE FURNISHED TO ALL CHILD-CARE FACILITIES BY DEPARTMENT — DISPOSAL OF UNSAFE PRODUCTS — INSPECTIONS BY DEPARTMENT — RULEMAKING AUTHORITY. — 1. The department of health and senior services shall, on or before July 1, 2003, and quarterly thereafter, provide all child care facilities licensed pursuant to this chapter with a comprehensive list of children's products that have been identified by the Consumer Product Safety Commission as unsafe.

2. Upon notification, a child care facility shall inspect its premises and immediately dispose of any unsafe children's products which are discovered. Such inspection shall be documented by signing and dating the department's notification form in a space designated by the department. Signed and dated notification forms shall be maintained in the facility's files for departmental inspection.

3. During regular inspections, the department shall document the facility's maintenance of past signed and dated notification forms. If the department discovers an unsafe children's product, the facility shall be instructed to immediately dispose of the product. If a facility fails to dispose of a product after being given notice that it is unsafe, it shall be considered a violation under the inspection.

4. The department may promulgate rules for the implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

211.031. JUVENILE COURT TO HAVE EXCLUSIVE JURISDICTION, WHEN — EXCEPTIONS. — 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190, RSMo, shall have exclusive original jurisdiction in proceedings:

(1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child or person seventeen years of age is otherwise without proper care, custody or support; or

(c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130, RSMo;

(d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(4) For the adoption of a person;

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law.

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person seventeen years of age who resides in a county of this state shall be made as follows:

(1) Prior to the filing of a petition and upon request of any party or at the discretion of the juvenile officer, the matter in the interest of a child or person seventeen years of age may be transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving court, to the county of the child's residence or the residence of the person seventeen years of age for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age, or the county in which the offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child or person seventeen years of age under the supervision of another juvenile court within or without the state pursuant to section 210.570, RSMo, with the consent of the receiving court;

(5) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or person seventeen years of age, certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the transfer.

3. In any proceeding involving any child or person seventeen years of age taken into custody in a county other than the county of the child's residence or the residence of a person seventeen years of age, the juvenile court of the county of the child's residence or the residence of a person seventeen years of age shall be notified of such taking into custody within seventy-two hours.

211.181. ORDER FOR DISPOSITION OR TREATMENT OF CHILD — SUSPENSION OF ORDER AND PROBATION GRANTED, WHEN — COMMUNITY ORGANIZATIONS, IMMUNITY FROM LIABILITY, WHEN — LENGTH OF COMMITMENT MAY BE SET FORTH — ASSESSMENTS, DEPOSITS, USE. — 1. When a child or person seventeen years of age is found by the court to come within the applicable provisions of subdivision (1) of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child or person seventeen years of age, and the court may, by order duly entered, proceed as follows:

(1) Place the child or person seventeen years of age under supervision in his own home or in the custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child or person seventeen years of age to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes; except that, such child or person seventeen years of age may not be committed to the department of social services, division of youth services;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive the child or person seventeen years of age in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Place the child or person seventeen years of age in a family home;

(4) Cause the child or person seventeen years of age to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child or person seventeen years of age requires it, cause the child or person seventeen years of age to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child or person seventeen years of age whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(5) **The court may order, pursuant to subsection 2 of section 211.081, that the child receive the necessary services in the least restrictive appropriate environment including home and community-based services, treatment and support, based on a coordinated, individualized treatment plan. The individualized treatment plan shall be approved by the court and developed by the applicable state agencies responsible for providing or paying for any and all appropriate and necessary services, subject to appropriation, and**

shall include which agencies are going to pay for and provide such services. Such plan must be submitted to the court within thirty days and the child's family shall actively participate in designing the service plan for the child or person seventeen years of age.

2. When a child is found by the court to come within the provisions of subdivision (2) of subsection 1 of section 211.031, the court shall so decree and upon making a finding of fact upon which it exercises its jurisdiction over the child, the court may, by order duly entered, proceed as follows:

(1) Place the child under supervision in his own home or in custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child to the custody of:

(a) A public agency or institution authorized by law to care for children or place them in family homes; except that, a child may be committed to the department of social services, division of youth services, only if he is presently under the court's supervision after an adjudication under the provisions of subdivision (2) or (3) of subsection 1 of section 211.031;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive it in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Place the child in a family home;

(4) Cause the child to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child requires it, cause the child to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(5) Assess an amount of up to ten dollars to be paid by the child to the clerk of the court. Execution of any order entered by the court pursuant to this subsection, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems reasonable. After a hearing, probation may be revoked and the suspended order executed.

3. When a child is found by the court to come within the provisions of subdivision (3) of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child, and the court may, by order duly entered, proceed as follows:

(1) Place the child under supervision in his own home or in custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive it in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Beginning January 1, 1996, the court may make further directions as to placement with the division of youth services concerning the child's length of stay. The length of stay order may set forth a minimum review date;

(4) Place the child in a family home;

(5) Cause the child to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child requires it, cause the child to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(6) Suspend or revoke a state or local license or authority of a child to operate a motor vehicle;

(7) Order the child to make restitution or reparation for the damage or loss caused by his offense. In determining the amount or extent of the damage, the court may order the juvenile officer to prepare a report and may receive other evidence necessary for such determination. The child and his attorney shall have access to any reports which may be prepared, and shall have the right to present evidence at any hearing held to ascertain the amount of damages. Any restitution or reparation ordered shall be reasonable in view of the child's ability to make payment or to perform the reparation. The court may require the clerk of the circuit court to act as receiving and disbursing agent for any payment ordered;

(8) Order the child to a term of community service under the supervision of the court or of an organization selected by the court. Every person, organization, and agency, and each employee thereof, charged with the supervision of a child under this subdivision, or who benefits from any services performed as a result of an order issued under this subdivision, shall be immune from any suit by the child ordered to perform services under this subdivision, or any person deriving a cause of action from such child, if such cause of action arises from the supervision of the child's performance of services under this subdivision and if such cause of action does not arise from an intentional tort. A child ordered to perform services under this subdivision shall not be deemed an employee within the meaning of the provisions of chapter 287, RSMo, nor shall the services of such child be deemed employment within the meaning of the provisions of chapter 288, RSMo. Execution of any order entered by the court, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems reasonable. After a hearing, probation may be revoked and the suspended order executed;

(9) When a child has been adjudicated to have violated a municipal ordinance or to have committed an act that would be a misdemeanor if committed by an adult, assess an amount of up to twenty-five dollars to be paid by the child to the clerk of the court; when a child has been adjudicated to have committed an act that would be a felony if committed by an adult, assess an amount of up to fifty dollars to be paid by the child to the clerk of the court.

4. Beginning January 1, 1996, the court may set forth in the order of commitment the minimum period during which the child shall remain in the custody of the division of youth services. No court order shall require a child to remain in the custody of the division of youth services for a period which exceeds the child's eighteenth birth date except upon petition filed by the division of youth services pursuant to subsection 1 of section 219.021, RSMo. In any order of commitment of a child to the custody of the division of youth services, the division shall determine the appropriate program or placement pursuant to subsection 3 of section 219.021, RSMo. Beginning January 1, 1996, the department shall not discharge a child from the custody of the division of youth services before the child completes the length of stay determined by the court in the commitment order unless the committing court orders otherwise. The director of the division of youth services may at any time petition the court for a review of a child's length of stay commitment order, and the court may, upon a showing of good cause, order the early discharge of the child from the custody of the division of youth services. The division may

discharge the child from the division of youth services without a further court order after the child completes the length of stay determined by the court or may retain the child for any period after the completion of the length of stay in accordance with the law.

5. When an assessment has been imposed under the provisions of subsection 2 or 3 of this section, the assessment shall be paid to the clerk of the court in the circuit where the assessment is imposed by court order, to be deposited in a fund established for the sole purpose of payment of judgments entered against children in accordance with section 211.185.

294.011. DEFINITIONS.—As used in this chapter, the following terms mean:

- (1) "Child", an individual under sixteen years of age, **unless otherwise specified**;
- (2) "Commission", the labor and industrial relations commission;
- (3) "Department", the department of labor and industrial relations;
- (4) "Department director", the director of the department of labor and industrial relations;
- (5) "Director", the director of the division of labor standards;
- (6) "Division", the division of labor standards;
- (7) "Employ", engage a child in gainful employment for wages or other remuneration [except where the child is working under the direct control of the parent, legal custodian or guardian of the child]. The term employ shall not include [the performance of the following services by a child twelve years of age or older] **any child working under the direct control of the child's parent and shall not include the following services which may be performed by any child over the age of twelve:**

- (a) The delivery or sales of newspapers[, magazines or periodicals];
- (b) Child care;
- (c) Occasional yard or farm work, **including agriculture work as defined in subdivision (1) of section 290.500, RSMo**, performed by a child with the knowledge and consent of [his or her] **the child's parent** [, legal custodian or guardian. Such work shall include the use of lawn and garden machinery in domestic service at or around a private residence, provided that, there shall be an agreement between an occupant of the private residence and the child, and by no other person, firm or corporation, other than a parent, legal custodian or guardian of the child, for the performance of such work]. **A child may operate lawn and garden machinery as specified in subsection (1) of section 294.040, provided that, no child shall be permitted to engage in any activities prohibited by section 294.040;**

(d) Participating in a youth sporting event as a referee, coach or other position necessary to the sporting event; except that, this paragraph shall not include working at a concession stand. For purposes of this paragraph, "youth sporting event" means an event where all players are under the age of eighteen and the event is sponsored and supervised by a public body or a not-for-profit entity; or

(e) Any other part-time employment performed by a child with the knowledge and consent of his or her parent, legal custodian or guardian not specifically prohibited by section 294.040;

- (8) **"Parent", a child's parent, legal custodian or guardian.**

294.024. EMPLOYMENT OF CHILDREN, WORK CERTIFICATE REQUIRED.—A child [who has passed the child's fourteenth birthday but is under sixteen years of age may be employed in any occupation other than the occupations prohibited by this chapter, except that the child] may not be employed during the regular school term unless the child has been issued a work certificate[,] or a work permit [issued] pursuant to the provisions of this chapter [or an exemption issued by the director].

294.030. HOURS OF WORK FOR MINORS.— 1. A child [under sixteen years of age] shall not be employed, permitted or suffered to work at any gainful employment for more than three hours per day in any school day, more than eight hours in any nonschool day, more than six days or forty hours in any week. Normal work hours shall not begin before seven o'clock in the

morning nor extend to after 9:00 p.m., except as provided in subsection 2 of this section. The provisions of this subsection may be waived by the director, in full or in part, depending upon the nature of the employment. Such waiver shall be provided in writing to the employer by the director. **The waiver shall only exempt employment described in section 294.022.**

2. On all evenings from Labor Day to June first, a child [under sixteen years of age] shall not be employed, permitted or suffered to work at any gainful employment after 7:00 p.m. nor after 9:00 p.m. from June first to Labor Day; except that a child who has passed his or her fourteenth birthday but is under sixteen years of age may be employed at a regional fair from June first to Labor Day, if such child does not work after 10:30 p.m., is supervised by an adult, parental consent is given and the provisions of this subsection are complied with. The [provisions of this subsection] **regional fair exception** shall not apply to those entities covered by the Fair Labor Standards Act. The provisions of this subsection do not apply to children who have been permanently excused from school pursuant to the provisions of chapter 167, RSMo. The provisions of this subsection may be waived by the director, in full or in part, depending upon the nature of the employment. Such waiver shall be provided in writing to the employer by the director. The waiver shall only exempt employment described in section 294.022.

294.043. EMPLOYMENT IN STREET OCCUPATION PROHIBITED, EXCEPTIONS. — No child under sixteen years of age shall be employed or permitted to work in any street occupation connected with peddling, begging, door-to-door selling or any activity pursued on or about any public street or public place [until the employer has received written permission from the director of the division of labor standards]. This prohibition does not apply to any public school or church or charitable fund-raising activity, **or distribution of literature relating to a registered political candidate.**

294.060. WORK CERTIFICATES OR WORK PERMITS TRANSMITTED TO EMPLOYER, RETURN TO OFFICER, REISSUE, RECORD. — 1. Whenever a child [under sixteen years of age] is granted a work certificate or work permit, the certificate or work permit shall be transmitted by the issuing officer to the employer of the child and a copy shall be [mailed] **transmitted** to the division. The employer shall keep the work certificate or work permit on file and shall post in a conspicuous place in the employer's place of business a list of all children who are employed and under the age of sixteen.

2. On termination of the employment of the child, the child's work certificate or work permit shall be sent immediately by the employer to the officer who issued it.

3. A new certificate or work permit may be issued for a child whose certificate or work permit has been returned by the employer to the issuing officer.

4. A copy of each work certificate or work permit issued and notice of its cancellation shall be retained by the issuing officer and a copy shall be [mailed] **transmitted** by the issuing officer to the division.

294.090. DIRECTOR OF DIVISION OF LABOR STANDARDS TO ENFORCE — RIGHTS, DUTIES — RECORD KEEPING REQUIRED — CANCELLATION OF WORK CERTIFICATE OR WORK PERMIT. — 1. The director is charged with the enforcement of the provisions of this chapter and all other laws regulating the employment of children. The director is vested with the power and jurisdiction to exercise such supervision over every employment as may be necessary to adequately enforce and administer the provisions of this chapter, including the right to enter any place where children are employed and to inspect the premises and to [call for and inspect] **require the production of** work certificates or work permits and any other necessary documents specifically requested that involve the employment of children.

2. **Every employer subject to any provision of sections 294.005 to 294.150 or any regulation issued pursuant to sections 294.005 to 294.150 shall make and keep for a period**

of not less than two years, on the premises where any child is employed, the work certificate, a record of the name, address, and age of the child, and times and hours worked by the child each day.

3. All records and information obtained by the division pertaining to minors are confidential and personal identifying information shall be disclosed only by order of a court of competent jurisdiction.

4. If it appears that a work certificate or work permit has been improperly granted or illegally used, or the child is being injured, or is likely to be injured by the employment, this fact shall be reported to the issuing officer who shall cancel the work certificate or work permit. Notice in writing of the cancellation, with reasons therefor, shall be [mailed] **transmitted** immediately to the child and to the person employing the child, and thereafter it shall be unlawful for any such person to continue to employ the child.

294.121. ADMINISTRATIVE PENALTIES, CIVIL DAMAGES, GROUNDS, DUTIES OF DIRECTOR, NOTICE, JUDICIAL REVIEW. — 1. Any person, firm or corporation who violates any provision of this chapter shall in addition to the criminal violation in section 294.110 be civilly liable for damages of not less than fifty dollars but not more than one thousand dollars for each violation. Each day a violation continues shall constitute a separate violation. Each child employed or permitted to work in violation of this chapter shall constitute a separate violation. The director may bring the civil action to enforce the provisions of this chapter. The attorney general may, on behalf of the director, bring suit pursuant to this section.

2. The director shall determine the amount of civil damages to request in the suit based on the nature and gravity of the violation. **The director shall also consider the size of the business when determining the appropriate civil damages. The size of the business shall be determined by the number of people employed by that business.** A request for the maximum civil damages shall be justified by the following, **to be considered individually or in combination:**

(1) The likelihood of injury and the seriousness of the potential injuries to which the child has been exposed;

(2) The business or employer has had multiple violations;

(3) The business or employer has had recurring violations;

(4) Employment of any child in a hazardous or detrimental occupation;

(5) Violations involving children under fourteen years of age;

(6) A substantial number of hours worked in excess of the statutory limit;

(7) Falsification or concealment of information regarding the employment of children;

(8) Failure to assure future compliance with the provisions of this chapter.

3. If the director decides to seek civil damages as provided by this section, the director shall notify, by certified mail, the person, firm or corporation charged with the violation. The notice of violation shall include the following:

(1) The nature of the violation;

(2) The date of the violation;

(3) The name of the child or children involved in the violation;

(4) The amount of civil damages the director is requesting;

(5) The terms and conditions for any settlement agreement; and

(6) The right to contest the director's decision to seek civil damages.

4. The initial violation determination from the division shall be final, unless within twenty calendar days after the division mails the violation determination or notification, the person, firm or corporation charged with the violation notifies the director in writing that the violation determination is being contested.

5. The parties named in the violation determination may contest the violation determination if a written notice appealing the violation determination is received by the director within twenty calendar days after the division mailed the violation determination. The director shall set a

meeting with the parties contesting the findings in order to review the findings of the division. After review of the findings, the director may hold that the findings support the violation determination or the director may issue a revised violation determination.

6. If the parties cited in the subsequent violation determination disagree with the violation determination of the director, then the parties cited in the subsequent violation determination may contest the subsequent determination by filing a written appeal with the department director. The appeal contesting the subsequent determination shall be sent to the department director in time to be received within twenty calendar days after the division mailed the subsequent violation determination from the director. If the director does not receive the written appeal within twenty calendar days after the division mailed the subsequent violation determination then the determination of the director shall be final. If the subsequent written appeal is received within the twenty-calendar-day period, then the department director, or the department director's designee, shall set a meeting with the parties contesting the findings in order to review the findings of the division and the director. After review of the findings, the department director, or the department director's designee, may hold that the findings of the division and the director support the violation determination or the department director, or the department director's designee, may issue a revised violation determination.

7. The determination of the department director or the department director's designee shall be the final determination pertaining to the violation determinations, unless judicial review is sought under chapter 536, RSMo.

294.141. NOTICE OF TRANSMISSIONS BY DIVISION. — The records of the division shall constitute prima facie evidence of the date of [mailing] **transmission** of any notice, determination or other paper [mailed] **transmission** pursuant to the provisions of this chapter.

352.400. MINISTERS, DUTY TO REPORT CHILD ABUSE AND NEGLECT — DEFINITIONS — DESIGNATION OF AN AGENT. — **1. As used in this section, the following words and phrases shall mean:**

(1) "Abuse", any physical injury, sexual abuse, or emotional abuse, injury or harm to a child under circumstances required to be reported pursuant to sections 210.109 to 210.183, RSMo;

(2) "Child", any person regardless of physical or mental condition, under eighteen years of age;

(3) "Minister", any person while practicing as a minister of the gospel, clergyperson, priest, rabbi, or other person serving in a similar capacity for any religious organization who is responsible for or who has supervisory authority over one who is responsible for the care, custody, and control of a child or has access to a child;

(4) "Neglect", failure to provide the proper or necessary support or services by those responsible for the care, custody, and control of a child, under circumstances required to be reported pursuant to sections 210.109 to 210.183, RSMo;

(5) "Religious organization", any society, sect, persuasion, mission, church, parish, congregation, temple, convention or association of any of the foregoing, diocese or presbytery, or other organization, whether or not incorporated, that meets at more or less regular intervals for worship of a supreme being or higher power, or for mutual support or edification in piety or with respect to the idea that a minimum standard of behavior from the standpoint of overall morality is to be observed, or for the sharing of common religious bonds and convictions;

(6) "Report", the communication of an allegation of abuse or neglect pursuant to sections 210.109 to 210.183, RSMo.

2. When a minister or agent designated pursuant to subsection 3 of this section has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect

under circumstances required to being reported pursuant to sections 210.109 to 210.183, RSMo, the minister or designated agent shall immediately report or cause a report to be made as provided in sections 210.109 to 210.183, RSMo. Notwithstanding any other provision of this section or sections 210.109 to 210.183, RSMo, a minister shall not be required to report concerning a privileged communication made to him or her in his or her professional capacity.

3. A religious organization may designate an agent or agents required to report pursuant to sections 210.109 to 210.183, RSMo, in an official capacity on behalf of the religious organization. In the event a minister, official or staff member of a religious organization has probable cause to believe that the child has been subjected to abuse or neglect under circumstances required to be reported pursuant to sections 210.109 to 210.183, RSMo, and the minister, official or staff member of the religious organization does not personally make a report pursuant to sections 210.109 to 210.183, RSMo, the designated agent of the religious organization shall be notified. The designated agent shall then become responsible for making or causing the report to be made pursuant to sections 210.109 to 210.183, RSMo. This section shall not preclude any person from reporting abuse or neglect as otherwise provided by law.

452.402. GRANDPARENT'S VISITATION RIGHTS GRANTED, WHEN, TERMINATED, WHEN — GUARDIAN AD LITEM APPOINTED, WHEN — ATTORNEY FEES AND COSTS ASSESSED, WHEN. — 1. The court may grant reasonable visitation rights to the grandparents of the child and issue any necessary orders to enforce the decree. The court may grant grandparent visitation when:

(1) The parents of the child have filed for a dissolution of their marriage. A grandparent shall have the right to intervene in any dissolution action solely on the issue of visitation rights. Grandparents shall also have the right to file a motion to modify the original decree of dissolution to seek visitation rights when such rights have been denied to them;

(2) One parent of the child is deceased and the surviving parent denies reasonable visitation rights **to a parent of the deceased parent of the child;**

(3) **The child has resided in the grandparent's home for at least six months within the twenty-four month period immediately preceding the filing of the petition;**

(4) A grandparent is unreasonably denied visitation with the child for a period exceeding ninety days. **However, if the natural parents are legally married to each other and are living together with the child, a grandparent may not file for visitation pursuant to this subdivision; or**

~~[(4)]~~ (5) The child is adopted by a stepparent, another grandparent or other blood relative.

2. The court shall determine if the visitation by the grandparent would be in the child's best interest or if it would endanger the child's physical health or impair the child's emotional development. Visitation may only be ordered when the court finds such visitation to be in the best interests of the child. **However, when the parents of the child are legally married to each other and are living together with the child, it shall be a rebuttable presumption that such parents know what is in the best interest of the child.** The court may order reasonable conditions or restrictions on grandparent visitation.

3. If the court finds it to be in the best interests of the child, the court may appoint a guardian ad litem for the child. The guardian ad litem shall be an attorney licensed to practice law in Missouri. The guardian ad litem may, for the purpose of determining the question of grandparent visitation rights, participate in the proceedings as if such guardian ad litem were a party. The court shall enter judgment allowing a reasonable fee to the guardian ad litem.

4. A home study, as described by section 452.390, may be ordered by the court to assist in determining the best interests of the child.

5. The court may, in its discretion, consult with the child regarding the child's wishes in determining the best interest of the child.

6. The right of a grandparent to seek or maintain visitation rights pursuant to this section may terminate upon the adoption of the child.

7. The court may award reasonable attorneys fees and expenses to the prevailing party.

453.030. APPROVAL OF COURT REQUIRED — HOW OBTAINED, CONSENT OF CHILD AND PARENT REQUIRED, WHEN — VALIDITY OF CONSENT — WITHDRAWAL OF CONSENT — FORMS, DEVELOPED BY DEPARTMENT, CONTENTS — COURT APPOINTMENT OF ATTORNEY, WHEN. — 1. In all cases the approval of the court of the adoption shall be required and such approval shall be given or withheld as the welfare of the person sought to be adopted may, in the opinion of the court, demand.

2. The written consent of the person to be adopted shall be required in all cases where the person sought to be adopted is fourteen years of age or older, except where the court finds that such child has not sufficient mental capacity to give the same.

3. With the exceptions specifically enumerated in section 453.040, when the person sought to be adopted is under the age of eighteen years, the written consent of the following persons shall be required and filed in and made a part of the files and record of the proceeding:

(1) The mother of the child; and

(2) Any man who:

(a) Is presumed to be the father pursuant to the subdivisions (1), (2), or (3) [or (5)] of subsection 1 of section 210.822, RSMo; or

(b) Has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child; or

(c) Filed with the putative father registry pursuant to section 192.016, RSMo, a notice of intent to claim paternity or an acknowledgment of paternity either prior to or within fifteen days after the child's birth, and has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child; or

(3) The child's current adoptive parents or other legally recognized mother and father.

Upon request by the petitioner and within one business day of such request, the clerk of the local court shall verify whether such written consents have been filed with the court.

4. The written consent required in subdivisions (2) and (3) of subsection 3 of this section may be executed before or after the commencement of the adoption proceedings, and shall be acknowledged before a notary public. In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons whose signatures and addresses shall be plainly written thereon. The two adult witnesses shall not be the prospective adoptive parents or any attorney representing a party to the adoption proceeding. The notary public or witnesses shall verify the identity of the party signing the consent.

5. The written consent required in subdivision (1) of subsection 3 of this section by the birth parent shall not be executed anytime before the child is forty-eight hours old. Such written consent shall be executed in front of a judge or a notary public. In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons who are present at the execution whose signatures and addresses shall be plainly written thereon and who determine and certify that the consent is knowingly and freely given. The two adult witnesses shall not be the prospective adoptive parents or any attorney representing a party to the adoption proceeding. The notary public or witnesses shall verify the identity of the party signing the consent.

6. The written consents shall be reviewed and, if found to be in compliance with this section, approved by the court within three business days of such consents being presented to the court. Upon review, in lieu of approving the consent within three business days, the court may set a date for a prompt evidentiary hearing upon notice to the parties. Failure to review and approve the written consent within three business days shall not void the consent, but a party may

seek a writ of mandamus from the appropriate court, unless an evidentiary hearing has been set by the court pursuant to this subsection.

7. The written consent required in subsection 3 of this section may be withdrawn anytime until it has been reviewed and accepted by a judge.

8. A consent form shall be developed through rules and regulations promulgated by the department of social services. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. If a written consent is obtained after August 28, 1997, but prior to the development of a consent form by the department and the written consent complies with the provisions of subsection 9 of this section, such written consent shall be deemed valid.

9. However, the consent form must specify that:

(1) The birth parent understands the importance of identifying all possible fathers of the child and shall provide the names of all such persons unless the mother has good cause as to why she should not name such persons. The court shall determine if good cause is justifiable. By signing the consent, the birth parent acknowledges that those having an interest in the child have been supplied with all available information to assist in locating all possible fathers; and

(2) The birth parent understands that if he denies paternity, but consents to the adoption, he waives any future interest in the child.

10. The written consent to adoption required by subsection 3 and executed through procedures set forth in subsection 5 of this section shall be valid and effective even though the parent consenting was under eighteen years of age, if such parent was represented by a guardian ad litem, at the time of the execution thereof.

11. Where the person sought to be adopted is eighteen years of age or older, his written consent alone to his adoption shall be sufficient.

12. A birth parent, including a birth parent less than eighteen years of age, shall have the right to legal representation and payment of any reasonable legal fees incurred throughout the adoption process. In addition, the court may appoint an attorney to represent a birth parent if:

(1) A birth parent requests representation;

(2) The court finds that hiring an attorney to represent such birth parent would cause a financial hardship for the birth parent; and

(3) The birth parent is not already represented by counsel.

13. Except in cases where the court determines that the adoptive parents are unable to pay reasonable attorney fees and appoints pro bono counsel for the birth parents, the court shall order the costs of the attorney fees incurred pursuant to subsection 12 of this section to be paid by the prospective adoptive parents or the child-placing agency.

454.606. NOTICE TO EMPLOYER OR UNION, NATIONAL MEDICAL SUPPORT NOTICE TO BE USED — DIVISION DUTIES. — 1. In all IV-D cases in which income withholding for child support is to be initiated on the effective date of the order pursuant to section 452.350, RSMo, and section 454.505, respectively, the circuit clerk or division, as appropriate, shall send a notice to the employer or union of the parent who has been ordered to provide the health benefit plan coverage at the same time the support order withholding notice is issued. In cases in which the division enforces an order to obtain health benefit plan coverage, it also shall send a notice to the employer or union of the parent who has been ordered to provide the health benefit plan coverage.

2. The notice shall be sent to the employer or union by certified mail, return receipt requested.

3. [The notice shall contain the following information:

(1) The parent's name and Social Security number;

(2) A statement that the parent has been required to provide and maintain health benefit plan coverage for a dependent minor child;

(3) The name, date of birth and Social Security number, if available, for each child.

4. The notice to withhold sufficient funds from the earnings due the obligor to cover employee contributions or premiums, when necessary to comply with the order to provide health benefit plan coverage, is binding on current and successor employers for current and subsequent periods of employment. Such notice continues until further notice by the court or the division.

5. The withholding of health benefit plan employee contributions or premiums from income, if required to comply with the order, shall not be held in abeyance pending the outcome of any hearing provided pursuant to section 454.609.] **The division shall use the National Medical Support Notice required by 42 U.S.C. Section 666(a)(19) and 45 C.F.R. Section 303.32 to enforce health benefit plan coverage under this chapter. All employers, unions, and plan administrators shall comply with the terms of the National Medical Support Notice, including the instructions therein, whether issued by the division or the IV-D agency of another state which appears regular on its face. The division shall:**

(1) Transfer the National Medical Support Notice to an employer within two business days after the date of entry of an employee who is an obligor in a IV-D case in the state directory of new hires; and

(2) Promptly notify the appropriate employer or union if a current order for medical support for which the division is responsible is no longer in effect.

4. The notice issued by the circuit clerk shall contain, at a minimum, the following information:

(1) The parent's name and Social Security number;

(2) A statement that the parent is required to provide and maintain health benefit plan coverage for a dependent minor child; and

(3) The name, date of birth, and Social Security number, if available, for each child.

5. The notice to withhold sufficient funds from the earnings due the obligor to cover employee contributions or premiums, when necessary to comply with the order to provide health benefit plan coverage, is binding on current and successor employers for current and subsequent periods of employment. Such notice shall continue until further notice by the court or division.

6. The withholding of health benefit plan employee contributions or premiums from income, if required to comply with the order, shall not be held in abeyance pending the outcome of any hearing provided pursuant to section 454.609.

454.609. NOTICE TO OBLIGOR, CONTENTS — GROUNDS FOR CONTESTING, HEARING. —

1. At the same time an employer **or union** notice is sent pursuant to section 454.606, the circuit clerk or the division, as appropriate, shall send a notice to the obligor by any form of mail to the obligor's last known address. The information contained in that notice shall include:

(1) A statement that the parent has been directed to provide and maintain health benefit plan coverage for the benefit of a minor child;

(2) The name and date of birth of the minor child;

(3) A statement that the income withholding for health benefit coverage applies to current and subsequent periods of employment;

(4) [The procedure available to] **A statement that the parent may within thirty days of the mailing date of the order or notice submit a written contest to the withholding on the grounds that the withholding is not proper because of mistake of fact or because the obligor [has purchased] provides other insurance that was obtained prior to issuance of the withholding order or notice that is comparable to the health benefit plan available through the employer or union or nonemployer or nonunion group;**

(5) A statement that if the obligor contests the withholding, the obligor shall be afforded an opportunity to present his **or her** case to the court or the division within thirty days of receipt of the notice of contest;

(6) A statement of exemptions which may apply to limit the portion of the obligated party's disposable earnings which are subject to the withholding under federal or state law;

(7) The Social Security number of the obligor, if available;

(8) A statement that state law prohibits employers from retaliating against an obligor under an order to provide health benefit plan coverage and that the court or the division should be contacted if the obligor has been retaliated against by his **or her** employer as a result of the order for health benefit plan coverage.

2. The only grounds to contest a withholding order or notice for health benefit plan coverage sent to an employer or union shall be mistake of fact or [the obligor's purchase of] **that the obligor obtained** other insurance **prior to issuance of the withholding order or notice** that is comparable to the health benefit plan available through the employer or union, or nonemployer or nonunion group. For purposes of sections 454.600 to 454.645, "mistake of fact" means an error as to the identity of the obligor.

3. If the obligor contests the withholding order **or notice** for health plan coverage because of mistake of fact or [the purchase of] **because the obligor obtained** comparable insurance [within fifteen days of the mail date of the notice] **prior to issuance of the withholding order or notice**, the court or the director shall hold a hearing, enter an order disposing of all issues disputed by the obligor[, indicate the date that withholding will commence, if appropriate,] and notify the obligated party of the determination and date, within forty-five days of the date of receipt of the obligated party's notice of contest.

454.615. EMPLOYER OR UNION TO TRANSFER ORDER TO GROUP HEALTH PLAN — DUTIES OF PLAN ADMINISTRATOR. — 1. Upon receipt of a court or administrative order, or notice, for health benefit plan coverage, the employer or union shall [forward a copy of] **transfer** the order or notice to the [health benefit plan administrator or insurer, as applicable] **appropriate group health plan providing the health plan coverage for which the child is eligible, excluding any severable notice to withhold for health care coverage directing the employer or union to withhold any mandatory employee contribution to the plan, within twenty business days after the date of the order or notice.**

2. Within forty business days after the date of the order or notice, the plan administrator shall:

(1) Notify the issuing agency whether coverage of the child is available under the terms of the plan and, if so, whether such child is covered under the plan and either the effective date of such coverage or, if necessary, any steps to be taken by the custodial parent or issuing agency to effectuate such coverage; and

(2) Provide to the custodial parent or issuing agency a description of the coverage available and any forms or documents necessary to effectuate such coverage.

454.618. ENROLLING OF CHILD AS ELIGIBLE DEPENDENT IN HEALTH BENEFIT PLAN, WITHHOLDING OF CONTRIBUTIONS — PROVISION OF INFORMATION AND AUTHORIZATION — DENIAL OR RESTRICTION OF COVERAGE, PROHIBITED, WHEN. — 1. Upon receipt of the court or administrative order, or notice, for health benefit plan coverage, or upon application of the obligor pursuant to that order, the employer or union shall **take necessary action** to enroll the minor child as an eligible dependent in the health benefit plan and, upon enrollment, withhold any required employee contribution or premium from the obligor's income or wages **necessary for the coverage of the child and send any amount withheld directly to the health benefit plan administrator.** If more than one health benefit plan is offered by the employer or union, the minor child shall be enrolled in the plan in which the obligor is enrolled. When one or more plans are available and the obligor is not enrolled in a plan that covers dependents or is not enrolled in any plan, the [employer or union shall enroll the] minor child and the obligor if necessary **shall be enrolled** under the least costly plan that provides service to the area where the child resides **if the order or notice for health benefit plan coverage is not a National Medical Support Notice issued by the division or IV-D agency of another state. If the notice for health benefit plan coverage is a National Medical Support Notice issued by the**

division or IV-D agency of another state, the health benefit plan administrator shall provide to the issuing agency copies of the applicable summary plan descriptions or other documents that describe available coverage, including the additional participant contribution necessary to obtain coverage for the child under each option and whether there is a limited service area for any option. The issuing agency, in consultation with the custodial parent, must promptly select from the available plan options. If the issuing agency does not make such selection within twenty business days from the date the plan administrator provided the option, the plan administrator shall enroll the child in the plan's default option, if any. If the plan does not have a default option, the plan administrator shall enroll the child in the option selected by the issuing agency.

2. In those instances where the obligor fails or refuses to execute any document necessary to enroll the minor child in the health benefit plan ordered by the court, the required information and authorization may be provided by the division or the custodial parent or guardian of the minor child.

3. Information and authorization provided by the division or the custodial parent or guardian of the minor child shall be valid for the purpose of meeting enrollment requirements of the health benefit plan and shall not affect the obligation of the employer or union and the insurer to enroll the minor child in the health benefit plan for which other eligibility, enrollment, underwriting terms and other requirements are met. However, any health benefit plan provision which denies or restricts coverage to a minor child of the obligor due to birth out of wedlock shall be void as against public policy.

4. A minor child that an obligor is required to cover as an eligible dependent pursuant to sections 454.600 to 454.645 shall be considered for health benefit plan coverage purposes as a dependent of the obligor until the child's right to parental support terminates or until further order of the court, but in no event past the limiting age set forth in the health benefit plan.

454.627. TERMINATION OF OBLIGOR'S EMPLOYMENT OR COVERAGE, NOTIFICATION OF OBLIGEE. — When an order for health benefit plan coverage pursuant to sections 454.600 to 454.645 is in effect, upon termination of the obligor's employment, or upon termination of the health benefit plan coverage, the employer, union or health benefit plan administrator, as appropriate, shall make a good faith effort to notify the obligee, [and] or in IV-D cases, the division, within ten days of the termination date with notice of continuation or conversion privileges. **In addition, in IV-D cases, upon termination of the obligor's employment, the employer shall promptly notify the division or IV-D agency of another state, as applicable, of the obligor's last known address and the name and address of the obligor's new employer, if known.**

454.700. INSURER TO PERMIT ENROLLMENT, WHEN — DUTIES OF EMPLOYER — GARNISHMENT OF INCOME PERMITTED, WHEN. — 1. In any case in which a parent is required by a court or administrative order to provide medical coverage for a child, under any health benefit plan, as defined in section 454.600, and a parent is eligible through employment, under the provisions of the federal Comprehensive Omnibus Budget Reconciliation Act (COBRA) or the provisions of section 376.892, RSMo, or for health coverage through an insurer or group health plan, any insurers, including group health plans as defined in section 607(1) of the federal Employee Retirement Income Security Act of 1974, offering, issuing, or renewing policies in this state on or after July 1, 1994, shall:

(1) Permit such parent to enroll under such coverage any such child who is otherwise eligible for such coverage, without regard to any enrollment season restrictions;

(2) Permit enrollment of a child under coverage upon application by the child's other parent [or by], the division of child support enforcement [or], the division of medical services, **or the tribunal of another state**, if the parent required by a court or administrative order to provide health coverage fails to make application to obtain coverage for such child;

(3) Not disenroll or eliminate coverage of a child unless [the insurer is provided satisfactory written evidence that]:

(a) **The insurer is provided satisfactory written evidence that** such court or administrative order is no longer in effect; or

(b) **The insurer is provided satisfactory written evidence that** the child is or will be enrolled in comparable health coverage through another insurer which will take effect no later than the effective date of the disenrollment; or

(c) **The employer or union eliminates family health coverage for all of its employees or members; or**

(d) **Any available continuation coverage is not elected or the period of such coverage expires.**

2. In any case in which a parent is required by a court or administrative order to provide medical coverage for a child, under any health benefit plan, as defined in section 454.600, and the parent is eligible for such health coverage through an employer doing business in Missouri, the employer **or union** shall:

(1) Permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage, without regard to any enrollment season restrictions;

(2) Enroll a child under family coverage upon application by the child's other parent [or by], the division of child support enforcement [or], the division of medical services, **or a tribunal of another state**, if a parent is enrolled but fails to make application to obtain coverage of such child; and

(3) Not disenroll or eliminate coverage of any such child unless [the employer is provided satisfactory written evidence that]:

(a) **The employer or union is provided satisfactory written evidence that** such court or administrative order is no longer in effect; or

(b) **The employer or union is provided satisfactory written evidence that** the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment; or

(c) The employer **or union** has eliminated family health coverage for all of its employees **or members**.

3. No insurer may impose any requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance under chapter 208, RSMo, and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

4. All insurers shall in any case in which a child has health coverage through the insurer of a noncustodial parent:

(1) Provide such information to the custodial parent or legal guardian as may be necessary for the child to obtain benefits through such coverage;

(2) Permit the custodial parent or legal guardian, or provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(3) Make payment on claims submitted in accordance with subdivision (2) of this subsection directly to the parent, the provider, or the division of medical services.

5. The division of medical services may garnish the wages, salary, or other employment income of, and require withholding amounts from state tax refunds, pursuant to section 143.783, RSMo, to any person who:

(1) Is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under Medicaid; and

(2) Has received payment from a third party for the costs of such services to such child, but has not used such payment to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services, to the extent necessary to reimburse the division of

medical services for expenditures for such costs under its plan. However, claims for current or past due child support shall take priority over claims by the division of medical services.

6. The remedies for the collection and enforcement of medical support established in this section are in addition to and not in substitution for other remedies provided by law and apply without regard to when the order was entered.

[191.233. MEDICAL RECORDS, FEE INCREASED OR DECREASED, WHEN. — The limits provided in section 191.227 shall be increased or decreased on an annual basis effective January first of each year in accordance with the Health Care Financing Administration Market Basket Survey.]

Approved July 2, 2002

SB 932 [HCS SB 932]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Clarifies the notice due to a tenant when the landlord sells the rented property.

AN ACT to repeal sections 250.140 and 535.081, RSMo, and to enact in lieu thereof two new sections relating to notice provisions.

SECTION

- A. Enacting clause.
- 250.140. Services deemed furnished both to occupant and owner of premises — notice of termination sent to both occupant and owner of premises.
- 535.081. Rent recovery, successor in title, notice required — notice may be attached to notarized affidavit (Counties of the first classification).

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 250.140 and 535.081, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 250.140 and 535.081, to read as follows:

250.140. SERVICES DEEMED FURNISHED BOTH TO OCCUPANT AND OWNER OF PREMISES — NOTICE OF TERMINATION SENT TO BOTH OCCUPANT AND OWNER OF PREMISES. — 1. Sewerage services or water and sewerage services combined shall be deemed to be furnished to both the occupant and owner of the premises receiving such service and the city, town or village or sewer district rendering such services shall have power to sue the occupant or owner, or both, of such real estate in a civil action to recover any sums due for such services, plus a reasonable attorney's fee to be fixed by the court.

2. If the occupant of the premises receives the billing, any notice of termination of service shall be sent to both the occupant and owner of the premises receiving such service, if such owner has requested in writing to receive any notice of termination and has provided the entity rendering such service with the owner's business addresses.

535.081. RENT RECOVERY, SUCCESSOR IN TITLE, NOTICE REQUIRED — NOTICE MAY BE ATTACHED TO NOTARIZED AFFIDAVIT (COUNTIES OF THE FIRST CLASSIFICATION). — The right of a successor in title to recover rents pursuant to section 535.070 requires adequate and

timely notice to the tenant. **Except in counties of the first classification as determined pursuant to section 48.020, RSMo,** for the purposes of this section, "adequate and timely notice" means that the purchaser shall notify tenants in writing **of the fact** that title to the property has been transferred, **and of the means of the transfer and the date of the transfer and the notice shall be attached to a copy of the deed which has been recorded.** **In counties of the first classification as determined pursuant to section 48.020, RSMo, in lieu of a copy of the deed which has been recorded, the notice required by this section may be attached to a notarized affidavit executed by both the prior owner of the property and the successor in title, which notarized affidavit shall state that the property has been transferred to the successor in title and the date on which the transfer occurred.**

Approved July 3, 2002

SB 941 [SB 941]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows owners of business property to appoint representative in matters involving drainage district.

AN ACT to repeal sections 242.010, 242.200 and 242.210, RSMo, relating to drainage districts, and to enact in lieu thereof three new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 242.010. Owner defined — delegation of representation and voting rights.
- 242.200. Board to elect president and secretary — report — compensation.
- 242.210. Secretary-treasurer of board — annual audit — warrants, form.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 242.010, 242.200 and 242.210, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 242.010, 242.200 and 242.210, to read as follows:

242.010. OWNER DEFINED — DELEGATION OF REPRESENTATION AND VOTING RIGHTS.
— 1. The word "owner" as used in sections 242.010 to 242.690 shall mean the owner of the freehold estate, as appears by the deed record, and it shall not include reversioners, remaindermen, trustees, or mortgagees, who shall not be counted and need not be notified by publication, or served by process, but shall be represented by the present owners of the freehold estate in any proceeding under said sections.

2. **Owners of property, located in whole or in part within the drainage district and owned by a corporation, partnership, joint venture, or any other form of ownership other than individual ownership, may delegate through procedures allowed as provided by the laws of this state an individual to exercise representation and voting on behalf of the corporation, partnership, joint venture, or other entity in matters requiring public vote involving the drainage district. For purposes of drainage districts organized pursuant to the laws of this state, any individual so recognized by the corporation, partnership, joint venture, or other entity as having the responsibilities of representing the property owner before the board of supervisors of the drainage district shall in all respects be treated by**

laws of this state as the owner of the property, and shall be entitled to all benefits and privileges allowed by law, including serving on the board of supervisors if so elected.

242.200. BOARD TO ELECT PRESIDENT AND SECRETARY —REPORT—COMPENSATION.

— 1. The board of supervisors immediately after their election shall choose one of their number president of the board, and elect some suitable person secretary, who shall serve until [his] **the secretary's** successor is elected and qualified, and who shall be a resident of the county or counties in which the district is situate **or of an adjoining county** and may or may not be a member of the board.

2. Such board shall adopt a seal with a suitable device, and shall keep a record of all its proceedings, which shall be open to the inspection of all owners of real estate and other property of the district, as well as to all other interested parties.

3. The board shall report to the landowners at the annual meeting held [under] **pursuant to** the provisions of section 242.160 what work has been done, either by the engineers or otherwise.

4. At the annual meeting held [under] **pursuant to** the provisions of section 242.160, the compensation to be received by the members of the board for their services while actually engaged in work for the district shall be determined.

242.210. SECRETARY-TREASURER OF BOARD —ANNUAL AUDIT—WARRANTS, FORM.

— 1. The secretary of the board of supervisors in any drainage district shall hold the office of treasurer of such district, except as otherwise provided herein, and [he] **the treasurer** shall receive and receipt for all the drainage taxes collected by the county collector or collectors of revenue, and [he] **the treasurer** shall also receive and receipt for the proceeds of all tax sales made [under] **pursuant to** the provisions of sections 242.010 to 242.690.

2. The treasurer shall receive a salary, payable monthly, such as the board of supervisors may fix, and all necessary expenses; the board of supervisors shall furnish the secretary and treasurer the necessary office room, furniture, stationery, maps, plats, typewriter, and postage, which office shall be in the county, or one of the counties, in which such district is situate, **or in an adjoining county**, and the district records shall be kept in such office.

3. The treasurer may appoint, by and with the advice and consent of the board of supervisors, one or more deputies as may be necessary, whose salary or salaries and necessary expenses shall be paid by the district.

4. The treasurer shall give bond in such amount as shall be fixed by the board of supervisors, conditioned that [he] **the treasurer** will well and truly account for and pay out, as provided by law, all moneys received by [him] **the treasurer** as taxes from the county collector or collectors, and the proceeds from the tax sales of delinquent taxes, and from any other source whatever on any account or claim of said district, which bond shall be signed by at least two sureties, approved and accepted by the board of supervisors, and the bond shall be in addition to the bond for the proceeds of sales of bonds, which is required by section 242.480. The bond of the treasurer may, if the board shall so direct, be furnished by a surety or bonding company, which shall be approved by the board of supervisors; bond shall be placed and remain in the custody of the president of the board of supervisors, and shall be kept separate from all papers in custody of the secretary and treasurer.

5. The treasurer shall deposit all funds received by [him] **the treasurer** in some bank, banks, or trust company to be designated by the board of supervisors. All interest accruing on such funds shall, when paid, be credited to the district.

6. It shall be the duty of the board of supervisors to audit or have audited the books of the treasurer of the district each year and make report thereof to the landowners at the annual meeting and publish a statement within thirty days thereafter, showing the amount of money received, the amount paid out during such year, and the amount in the treasury at the beginning

and end of the year, and file a copy of such statement in the office of the county clerk of each county containing land embraced in the district.

7. The treasurer of the district shall pay out funds of the district only on warrants issued by the district, said warrants to be signed by the president of the board of supervisors and attested by the signature of the secretary and treasurer. All warrants shall be in the following form:

\$Fund No. of warrant Treasurer of district, state of

Pay to dollars out of the money in fund of district for

By order of board of supervisors of district.

(Seal),
President of district.

Attest,
Secretary of district.

Approved June 27, 2002

SB 947 [HCS SCS SB 947]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises Missouri Health and Educational Facilities Act to include public community junior colleges.

AN ACT to repeal sections 178.870, 360.106, 360.111, and 360.112, RSMo, and to enact in lieu thereof five new sections relating to public community colleges.

SECTION

- A. Enacting clause.
- 178.870. Tax rates, limits — how increased and decreased.
- 178.881. Community college capital improvement subdistrict may be established, boundaries, taxation — ballot language — dissolution of subdistrict.
- 360.106. Definitions — bonds or notes issued for loans to or purchase of notes of school districts and community junior colleges — how secured — investment of funds — bids required for professional services furnished — report by authority due when.
- 360.111. School districts or public community junior college may participate in a direct deposit agreement — participation a waiver of right to bankruptcy.
- 360.112. Authority to serve as administrator for issuances — commissioner of education and state treasurer's authority.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 178.870, 360.106, 360.111, and 360.112, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 178.870, 178.881, 360.106, 360.111, and 360.112, to read as follows:

178.870. TAX RATES, LIMITS — HOW INCREASED AND DECREASED. — [Any tax imposed on property subject to the taxing power of the junior college district under article X, section 11(a) of the constitution without voter approval shall not exceed the annual rate of ten cents on the hundred dollars assessed valuation in districts having one billion five hundred million dollars or more assessed valuation; twenty cents on the hundred dollars assessed valuation in districts having seven hundred fifty million dollars but less than one billion five hundred million dollars assessed valuation; thirty cents on the hundred dollars assessed valuation in districts having five hundred million dollars but less than seven hundred fifty million dollars assessed valuation; forty

cents on the hundred dollars assessed valuation in districts having less than five hundred million dollars assessed valuation; except that, no public junior college district having an assessed valuation in excess of one hundred million and less than two hundred fifty million which is levying an operating levy of thirty cents per one hundred dollars assessed valuation on September 28, 1975, shall increase such levy above thirty cents per one hundred dollars assessed valuation without voter approval. Tax rates specified in this section that were in effect in 1984 shall not be lowered due to an increase in assessed valuation created by general reassessment; however, the provisions of section 137.073, RSMo, or section 22(a) of article X of the Missouri Constitution are applicable. Districts which operate institutions awarding degrees above the associate degree shall not be affected by the changes provided in this section. Increases of the rate with voter approval shall be made in the manner provided in chapter 164, RSMo, for school districts] **Any tax imposed on property subject to the taxing power of the junior college district under article X, section 11(a) of the Missouri Constitution without voter approval shall not exceed the annual rate of ten cents on the hundred dollars assessed valuation in districts having one billion five hundred million dollars or more assessed valuation; twenty cents on the hundred dollars assessed valuation in districts having seven hundred fifty million dollars but less than one billion five hundred million dollars assessed valuation; thirty cents on the hundred dollars assessed valuation in districts having five hundred million dollars but less than seven hundred fifty million dollars assessed valuation; forty cents on the hundred dollars assessed valuation in districts having less than five hundred million dollars assessed valuation; except that, no public junior college district having an assessed valuation in excess of one hundred million and less than two hundred fifty million which is levying an operating levy of thirty cents per one hundred dollars assessed valuation on September 28, 1975, shall increase such levy above thirty cents per one hundred dollars assessed valuation without voter approval. Tax rates specified in this section that were in effect in 1984 shall not be lowered due to an increase in assessed valuation created by general reassessment; however, the provisions of section 137.073, RSMo, or section 22(a) of article X of the Missouri Constitution are applicable. Districts which operate institutions awarding degrees above the associate degree shall not be affected by the changes provided in this section. Increases of the rate with voter approval shall be made in the manner provided in chapter 164, RSMo, for school districts.**

178.881. COMMUNITY COLLEGE CAPITAL IMPROVEMENT SUBDISTRICT MAY BE ESTABLISHED, BOUNDARIES, TAXATION — BALLOT LANGUAGE — DISSOLUTION OF SUBDISTRICT. — 1. The board of trustees of any public community college district in this state may establish a community college capital improvement subdistrict by its order for the sole purpose of capital projects. The boundaries of any capital improvement subdistrict established pursuant to this section shall be within the boundaries of the community college district.

2. In the event a capital improvement subdistrict is so established, the board of trustees may propose an annual rate of taxation for the sole purpose of capital projects, within the limits of sections 178.770 to 178.891, which proposal shall be submitted to a vote of the people within the capital improvement subdistrict.

3. The question shall be submitted in substantially the following form:

Shall the board of trustees of (name of district) be authorized, for the purpose of (name of capital project), to borrow money in the amount of dollars to be used in the capital improvement subdistrict of (name of capital improvement subdistrict) for the purpose of (name of capital project) and issue bonds for payment thereof?

☐ YES ☐ NO

4. If a majority of the votes cast on the question are for the tax as submitted, the tax shall be levied and collected on property within the capital improvement subdistrict in the

same manner as other community college district taxes. Such funds shall be used for capital improvements in the community college capital improvement subdistrict.

5. Where a tax has not been approved by the voters within a five year period from the establishment of a community college capital improvement subdistrict, such capital improvement subdistrict shall be dissolved by the board of trustees.

360.106. DEFINITIONS — BONDS OR NOTES ISSUED FOR LOANS TO OR PURCHASE OF NOTES OF SCHOOL DISTRICTS AND COMMUNITY JUNIOR COLLEGES — HOW SECURED — INVESTMENT OF FUNDS — BIDS REQUIRED FOR PROFESSIONAL SERVICES FURNISHED — REPORT BY AUTHORITY DUE WHEN. — 1. As used in this section and sections 360.111 to 360.118, the following terms mean:

(1) "Funding agreement", any loan agreement, financing agreement or other agreement between the authority and a participating district under this section, providing for the use of proceeds of, security for, and the repayment of, school district bonds, and shall include a complete waiver by the participating district of all powers, rights and privileges conferred upon the participating district to institute any action authorized by any act of the Congress of the United States relating to bankruptcy on the part of the participating district;

(2) "Participating district", with respect to a particular issue of bonds, notes or other financial obligations, any school district and any public community junior college in this state which voluntarily enters into a funding agreement with the authority pursuant to this section;

(3) "School district bonds", any bonds, notes or other obligations issued by the authority for the purpose of making loans to, purchasing the bonds or notes of or otherwise by agreement using or providing for the use of the proceeds of the obligations by a participating district under this section and all related costs of issuance of the obligations including, but not limited to, all costs, charges, fees and expenses of underwriters, financial advisors, attorneys, consultants, accountants and of the authority.

2. In addition to other powers granted to the authority by sections 360.010 to 360.140, the authority shall have the power to issue school district bonds or notes for the purpose of making loans to, or purchasing the bonds, notes or other financial instruments of:

(1) Any school district or any public community junior college in this state for the use of the various funds of such school district or public community junior college for any lawful purpose; and

(2) Any school district in this state with respect to obligations issued by such school district pursuant to sections 164.121 to 164.301, RSMo, or otherwise by law.

3. In connection with the issuance of school district bonds pursuant to the powers granted in this section, the authority shall have all powers as set forth elsewhere in sections 360.010 to 360.140, and the provisions of sections 360.010 to 360.140 shall be applicable to the issuance of school district bonds to the extent that they are not inconsistent with the provisions of this section.

4. School district bonds issued pursuant to this section may be secured by a pledge of payments made to the authority by the participating district, by the bonds or notes of the participating district, or by a pooling of such payments, bonds or notes of two or more of such participating districts or as otherwise set forth in the funding agreements.

5. The authority may invest any funds held pursuant to powers granted under this section, which are not required for immediate disbursement, in any investment approved by the authority and specified in the trust indenture or resolution pursuant to which such bonds or notes are issued without regard to any limitation otherwise imposed by section 360.120 or otherwise by law; provided, however, that each participating district shall receive the earnings, or a credit for such earnings, to the extent any such amounts invested are attributable to a particular participating district.

6. (1) In connection with school district bonds, upon certification by the authority to the commissioner of education and the state treasurer that the funding agreement provides for

consent by a participating district for direct deposit of its state payments to the trustee, the state treasurer shall transfer, but only out of funds described in this section, directly to the trustee for such school district bonds, the amounts needed to pay the principal and interest when due on the school district bonds attributable to a particular participating district. Such transfers for any school district bonds attributable to a particular participating district shall only be made out of, and to the extent of, the state payments and distributions from all funds to be made by the state to such participating district pursuant to sections 163.011 to 163.195, RSMo, and the distributions from the fair share fund to be made by the state to such participating district pursuant to section 149.015, RSMo. Any such transfer by the state on behalf of a participating district shall discharge the state's obligation to make such state payments to such participating district to the extent of such transfer;

(2) A participating district shall withdraw amounts from any of its funds established pursuant to section 165.011, RSMo, to the extent such amounts could have been used to make the payments made on its behalf by the state treasurer as provided in subdivision (1) of this subsection. Notwithstanding any provisions of section 108.180, RSMo, to the contrary, such amounts shall be deposited into the participating district's funds as provided by law in lieu of the state payments transferred to the trustee under the funding agreement;

(3) The authority shall from time to time develop guidelines containing certain criteria with respect to participating school districts and with respect to the issuance of school district bonds;

(4) Transfers made under this subsection pursuant to a school district's participation in a funding agreement under this section shall be made at no cost to the school district.

7. The authority shall provide for the payment of costs of issuance, costs of credit enhancement and any other costs or fees related to the issuance of any school district bonds other than reserve funds, out of the proceeds thereof or out of amounts distributed annually to the authority pursuant to sections 160.534 and 164.303, RSMo. The authority shall annually submit a request for funding of such costs to the commissioner of education in such form and at such time as he may request. A copy of such request shall be forwarded to the commissioner of administration. The authority shall provide for the payment of costs pursuant to this subsection only for bonds issued for the purpose of financing construction or renovation projects approved by voters after January 1, 1995, or refinancing construction or renovation projects or for refinance of lease purchase obligations with general obligation bonds.

8. Any refunding or refinancing of existing bonds of a school district under this section shall have a net present value savings of at least one and one-half percent of the par amount of the refunded bonds.

9. The commissioner of education shall serve as an ex officio, nonvoting, advisory member of the authority solely with regard to the exercise of powers granted pursuant to this section.

10. Nothing in this section or sections 360.111 to 360.118 shall be construed to relieve a school district **or public community junior college** of its obligation to levy a debt service levy or capital projects levy sufficient to retire any obligation of the district **or college** as otherwise provided by law.

11. Any professional services provided in connection with the sale of such bonds pursuant to this section, including, but not limited to, underwriters, bond counsel, underwriters' counsel, trustee and financial advisors, shall be obtained through competitive bidding. The initial bid for professional services shall be for a period of not longer than two years, and thereafter such bids shall be awarded for a period not longer than one year.

12. The authority shall review the cost effectiveness of the program established under this section and sections 360.111 to 360.118 and shall, on or before the fifteenth of August of each year, provide a report to the general assembly which shall contain a report on the program, the authority's findings and a recommendation of whether this section should be repealed, strengthened or otherwise amended.

360.111. SCHOOL DISTRICTS OR PUBLIC COMMUNITY JUNIOR COLLEGE MAY PARTICIPATE IN A DIRECT DEPOSIT AGREEMENT—PARTICIPATION A WAIVER OF RIGHT TO BANKRUPTCY. — Any school district **or public community junior college** which is not a participating district, as defined in section 360.106, with respect to a particular issue of its bonds, notes or other financial obligations may participate with the authority in a direct deposit agreement with respect to such issue of bonds, notes or other financial obligations. A direct deposit agreement under sections 360.111 to 360.118 shall satisfy all requirements of subsection 6 of section 360.106 with regard to funding agreements of participating districts, and such school district shall be subject to all requirements applicable to participating districts under subsections 6 and 9 of section 360.106 and shall have all powers granted to participating districts under subsection 6 of section 360.106. A direct deposit agreement under sections 360.111 to 360.118 shall include a complete waiver by the school district **or public community junior college** of all powers, rights and privileges conferred upon the school district **or public community junior college** to institute any action authorized by any act of the Congress of the United States relating to bankruptcy on the part of the school district **or public community junior college**. No school district **or public community junior college** shall be precluded from participation with the authority pursuant to section 360.106 with respect to any particular issue of bonds, notes or other financial obligations on the basis of the district's **or college's** participation with the authority in a direct deposit agreement pursuant to sections 360.111 to 360.118 with respect to any other issue of bonds, notes or other financial obligations.

360.112. AUTHORITY TO SERVE AS ADMINISTRATOR FOR ISSUANCES—COMMISSIONER OF EDUCATION AND STATE TREASURER'S AUTHORITY. — The authority shall serve as administrator for any issuance pursuant to sections 360.111 to 360.118. The authority, the commissioner of education and the state treasurer shall be authorized to take all actions with regard to a school district **or public community junior college** which has a direct deposit agreement under sections 360.111 to 360.118 as such persons are authorized to take such actions with respect to a participating district under subsection 6 of section 360.106.

Approved July 12, 2002

SB 950 [HCS SB 950]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates a portion of Interstate 44 as the Henry Shaw Ozark Corridor.

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to the designation of the Henry Shaw Ozark Corridor.

SECTION

- A. Enacting clause.
227.323. Henry Shaw Ozark Corridor designated.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto one new section, to be known as section 227.323, to read as follows:

227.323. HENRY SHAW OZARK CORRIDOR DESIGNATED. — 1. The portion of interstate highway 44, log mile 277.3, Geyer Road overpass, located in a county of the first classification with a charter form of government and with more than one million inhabitants, to log mile 255.0, one mile west of Gray Summit interchange, located in a county of the first classification without a charter form of government and with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants shall be designated the "Henry Shaw Ozark Corridor".

2. Pursuant to section 226.525, RSMo, appropriate signage will be provided at the east and west boundaries of the "Henry Shaw Ozark Corridor". Such signage shall affirm the state's value for its natural heritage, the Ozarks, plus the cultural heritage of the communities located along the "Henry Shaw Ozark Corridor".

Approved July 11, 2002

SB 957 [HCS SCS SB 957]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows those who serve in Operation Enduring Freedom to receive a special license denoting such service.

AN ACT to repeal section 301.131, RSMo, and to enact in lieu thereof three new sections relating to license plates, with penalty provisions.

SECTION

A. Enacting clause.

301.131. Historic motor vehicles, permanent registration, fee — license plates — annual mileage allowed, record to be kept — penalty.

301.3090. Operation Enduring Freedom special license plates, application, fee.

301.3116. Operation Noble Eagle special license plate, application, fee.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 301.131, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 301.131, 301.3090, and 301.3116, to read as follows:

301.131. HISTORIC MOTOR VEHICLES, PERMANENT REGISTRATION, FEE — LICENSE PLATES — ANNUAL MILEAGE ALLOWED, RECORD TO BE KEPT — PENALTY. — 1. Any motor vehicle over twenty-five years old which is owned solely as a collector's item and which is used and intended to be used for exhibition and educational purposes shall be permanently registered upon payment of a registration fee of twenty-five dollars. Upon the transfer of the title to any such vehicle the registration shall be canceled and the license plates issued therefor shall be returned to the director of revenue.

2. The owner of any such vehicle shall file an application in a form prescribed by the director, if such vehicle meets the requirements of this section, and a certificate of registration shall be issued therefor. Such certificate need not specify the horsepower of the motor vehicle.

3. The director shall issue to the owner of any motor vehicle registered pursuant to this section the same number of license plates which would be issued with a regular annual registration, containing the number assigned to the registration certificate issued by the director

of revenue. [Such license plates shall be kept securely attached to the motor vehicle registered hereunder. The advisory committee established in section 301.129 shall determine the characteristic features of such license plates for vehicles registered pursuant to the provisions of this section so that they may be recognized as such, except that] Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

4. Historic vehicles may be driven to and from repair facilities one hundred miles from the vehicle's location, and in addition may be driven up to one thousand miles per year for personal use. The owner of the historic vehicle shall be responsible for keeping a log of the miles driven for personal use each calendar year. Such log must be kept in the historic vehicle when the vehicle is driven on any state road. The historic vehicle's mileage driven in an antique auto tour or event and mileage driven to and from such a tour or event shall not be considered mileage driven for the purpose of the mileage limitations in this section. Violation of this section is a class C misdemeanor and in addition to any other penalties prescribed by law, upon conviction thereof, the director of revenue shall revoke the historic motor vehicle license plates of such violator which were issued pursuant to this section.

5. Notwithstanding any provisions of this section to the contrary, any person possessing a license plate issued by the state of Missouri [prior to 1979] **that is over twenty-five years old**, in which the year of the issuance of such plate is consistent with the year of the manufacture of the vehicle, the owner of the vehicle may register such plate as [a personalized plate by following the procedures for personalized license plate registration and paying the same fees as prescribed in section 301.144] **an historic vehicle plate as set forth in subsections 1 and 2 of this section, provided that the configuration of letters, numbers or combination of letters and numbers of such plate are not identical to the configuration of letters, numbers or combination of letters and numbers of any plates already issued to an owner by the director.** Such license plate shall not be required to possess the characteristic features of reflective material and common color scheme and design as prescribed in section 301.130. **The owner of the historic vehicle registered pursuant to this subsection shall keep the certificate of registration in the vehicle at all times. The certificate of registration shall be prima facie evidence that the vehicle has been properly registered with the director and that all fees have been paid.**

301.3090. OPERATION ENDURING FREEDOM SPECIAL LICENSE PLATES, APPLICATION, FEE. — Any person who is serving or has served in any branch of the United States military, including the reserves or national guard, during any part of Operation Enduring Freedom and has not been dishonorably discharged may receive special motor vehicle license plates for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service during Operation Enduring Freedom or proof of status as an honorably discharged veteran as the director may require. Upon presentation of the proof of eligibility and annual payment of the fee required for personalized license plates prescribed by section 301.144, and other fees and documents which may be required by law, the director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "OPERATION ENDURING FREEDOM" in place of the words "SHOW-ME STATE". Such plates shall also bear an image of the American flag. The plates shall be clearly visible at night and shall be aesthetically attractive, as prescribed by section 301.130. No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant. License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle

may operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

301.3116. OPERATION NOBLE EAGLE SPECIAL LICENSE PLATE, APPLICATION, FEE. — Any person who is serving or has served in any branch of the United States military, including the reserves or national guard, during any part of Operation Noble Eagle and has not been dishonorably discharged may receive special motor vehicle license plates for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service during Operation Noble Eagle or proof of status as an honorably discharged veteran as the director may require. Upon presentation of the proof of eligibility and annual payment of the fee required for personalized license plates prescribed by section 301.144, and other fees and documents which may be required by law, the director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "OPERATION NOBLE EAGLE" in place of the words "SHOW-ME STATE". Such plates shall also bear an image of the American flag. The plates shall be clearly visible at night and shall be aesthetically attractive, as prescribed by section 301.130. No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant. License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle may operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

Approved July 3, 2002

SB 959 [SS SCS SB 959]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Adds separately managed accounts to the term management services for income tax purposes.

AN ACT to repeal section 620.1355, RSMo, and to enact in lieu thereof one new section relating to investment funds service corporations, with an emergency clause.

SECTION

- A. Enacting clause.
- 620.1355. Director to certify corporations — factors to be considered — certificate issued when — failure to qualify, applicant's right of appeal — nonresident corporation, director may issue opinion, when.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 620.1355, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 620.1355, to read as follows:

620.1355. DIRECTOR TO CERTIFY CORPORATIONS — FACTORS TO BE CONSIDERED — CERTIFICATE ISSUED WHEN — FAILURE TO QUALIFY, APPLICANT'S RIGHT OF APPEAL —

NONRESIDENT CORPORATION, DIRECTOR MAY ISSUE OPINION, WHEN. — The director shall certify an investment funds service corporation or S corporation to make the annual election and shall determine whether applicants for certification qualify pursuant to the definitions found in subdivision (4) of subsection 2 of section 143.451, RSMo. In making his or her determination for certification, the director shall further take into consideration factors including, but not limited to: current and past industry employment growth and employment retention in the state; salary levels of new or existing industry employment in the state; the income tax laws applied to investment funds service corporations in other states; industry growth nationally and within the state; the prevailing conditions in the economy and financial markets; the competitive environment within the industry; the applicant's past certification and use of this section and sections 620.1350 and 620.1360; and an applicant's size, structure and method of operation. After determining an applicant is qualified to make the election, the director shall issue a certificate of qualification, a copy of which the applicant shall annually file with the applicant's income tax return. Once certified by the director, an investment funds service corporation shall remain certified for the annual election pursuant to this section and sections 620.1350 and 620.1360 until it no longer qualifies pursuant to the definitions of subdivision (4) of subsection 2 of section 143.451, RSMo. The director may, at any time, require reasonable information to be submitted by an investment funds service corporation to establish its qualification for certification. If the director determines an application does not qualify for the annual election, the director shall notify the applicant of the reason for this determination in writing and the applicant shall have the same rights of reconsideration and appeal afforded to taxpayers denied tax credits pursuant to section 135.250, RSMo. **The director, upon request, may issue an opinion stating whether a nonresident investment funds service corporation or S corporation would meet the qualifications for certification pursuant to this section if such corporation were to relocate its principal business headquarters to this state, and such opinion shall be binding upon this state and its agencies if such corporation relocates its headquarters to this state in reliance on such opinion and if at the time such corporation relocates its principal business headquarters to this state, it meets the requirements of subdivision (4) of subsection 2 of section 143.451, RSMo, the director shall certify the corporation to make the initial annual election as set forth in this section. Any provision of law to the contrary notwithstanding, information submitted to the director pursuant to this section shall be exempt from the provisions of chapter 610, RSMo.**

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to provide nonresident investment funds service corporations with critical information regarding their certification status, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 27, 2002

SB 960 [HCS SCS SB 960]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the "God Bless America" license plates.

AN ACT to amend chapter 301, RSMo, by adding thereto three new sections relating to the creation of special license plates.

SECTION

- A. Enacting clause.
- 301.3087. Missouri State Humane Association special license plate, application, fee — Missouri pet spay/neuter fund created.
- 301.3097. God Bless America special license plate, application, fee.
- 301.3115. Air medal award special license plate, application, fee.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 301, RSMo, is amended by adding thereto three new sections, to be known as sections 301.3087, 301.3097, and 301.3115, to read as follows:

301.3087. MISSOURI STATE HUMANE ASSOCIATION SPECIAL LICENSE PLATE, APPLICATION, FEE — MISSOURI PET SPAY/NEUTER FUND CREATED. — **1.** Any person may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Missouri State Humane Association. The Missouri State Humane Association hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. All emblem-use authorization fees, except reasonable administrative costs, shall be placed into a special fund as described in subsection 4 of this section and shall be used exclusively for the purpose of spaying and neutering dogs and cats in the state of Missouri.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Missouri State Humane Association, the Missouri State Humane Association shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Missouri State Humane Association and shall have the words "I'M PET FRIENDLY" on the license plates in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Missouri State Humane Association emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Missouri State Humane Association emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

4. The "Missouri Pet Spay/Neuter Fund" is hereby created as a special fund in the state treasury and shall be administered by the department of agriculture. This fund shall consist of moneys collected pursuant to this section. All moneys deposited in the Missouri

pet spay/neuter fund, except reasonable administrative costs, shall be paid as grants to humane societies, local municipal animal shelters regulated by sections 273.400 to 273.405, RSMo, and organizations exempt from federal income taxation under Section 501 (c)(3) of the Internal Revenue Code to be used solely for the spaying and neutering of dogs and cats in the state of Missouri. For purposes of approving grants under this section, the governor shall appoint a volunteer board that shall consist of three Missouri residents, of which two shall be administrators of local municipal animal shelters regulated by sections 273.400 to 273.405, RSMo, and one shall be an administrator of a humane society. Each of the three members shall be from separate congressional districts. Members of this board shall be appointed for three year terms and shall meet at least twice a year to review grant applications. All moneys deposited in the Missouri pet spay/neuter fund, except reasonable administrative costs, shall be spent by the end of each fiscal year. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, if any moneys remain in the fund at the end of the biennium, said moneys shall not revert to the credit of the general revenue fund.

301.3097. GOD BLESS AMERICA SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any vehicle owner may apply for "God Bless America" license plates for any motor vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Upon making a ten-dollar contribution to the World War II memorial fund the vehicle owner may apply for the "God Bless America" plate. If the contribution is made directly to the Missouri veterans' commission they shall issue the individual making the contribution a receipt, verifying the contribution, that may be used to apply for the "God Bless America" license plate. If the contribution is made directly to the director of revenue pursuant to section 301.3031, the director shall note the contribution and the owner may then apply for the "God Bless America" plate. The applicant for such plate must pay a fifteen-dollar fee in addition to the regular registration fees and present any other documentation required by law for each set of "God Bless America" plates issued pursuant to this section. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section. The "God Bless America" plate shall bear the emblem of the American flag in a form prescribed by the director of revenue and shall have the words "GOD BLESS AMERICA" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

2. The director of revenue may promulgate rules and regulations for the administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

301.3115. AIR MEDAL AWARD SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any person who has been awarded the military service award known as the "Air Medal" may apply for Air Medal motor vehicle license plates for any motor vehicle such person owns,

either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight.

2. Any such person shall make application for the Air Medal license plates on a form provided by the director of revenue and furnish such proof as a recipient of the Air Medal as the director may require. The director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the director with the words "AIR MEDAL" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Such plates shall also bear an image of the Air Medal.

3. There shall be a fifteen-dollar fee in addition to the regular registration fees charged for each set of Air Medal license plates issued pursuant to this section. A fee for the issuance of personalized license plates pursuant to section 301.144 shall not be required for plates issued pursuant to this section. There shall be no limit on the number of license plates any person qualified pursuant to this section may obtain so long as each set of license plates issued pursuant to this section is issued for vehicles owned solely or jointly by such person. License plates issued pursuant to the provisions of this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle with such plates for the duration of the year licensed in the event of the death of the qualified person.

Approved July 3, 2002

SB 962 [HCS SB 962]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows Kansas City to designate Jackson County Election Authority as verification board for the City.

AN ACT to repeal section 115.507, RSMo, and to enact in lieu thereof one new section relating to the certification of election results.

SECTION

A. Enacting clause.

115.507. Announcement of results by verification board, contents, when due — abstract of votes to be official returns.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 115.507, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 115.507, to read as follows:

115.507. ANNOUNCEMENT OF RESULTS BY VERIFICATION BOARD, CONTENTS, WHEN DUE — ABSTRACT OF VOTES TO BE OFFICIAL RETURNS. — 1. Not later than the second Tuesday after the election, the verification board shall issue a statement announcing the results of each election held within its jurisdiction and shall certify the returns to each political subdivision and special district submitting a candidate or question at the election. The statement shall include a categorization of the number of regular and absentee votes cast in the election, and how those votes were cast; provided however, that absentee votes shall not be reported separately where such reporting would disclose how any single voter cast his or her vote. When

absentee votes are not reported separately the statement shall include the reason why such reporting did not occur. Nothing in this section shall be construed to require the election authority to tabulate absentee ballots by precinct on election night.

2. The verification board shall prepare the returns by drawing an abstract of the votes cast for each candidate and on each question submitted to a vote of people in its jurisdiction by the state and by each political subdivision and special district at the election. The abstract of votes drawn by the verification board shall be the official returns of the election.

3. **Any home rule city with more than four hundred thousand inhabitants and located in more than one county may by ordinance designate one of the election authorities situated partially or wholly within that home rule city to be the verification board that shall certify the returns of such city submitting a candidate or question at any election and shall notify each verification board within the city of that designation by providing each with a copy of such duly adopted ordinance. Not later than the second Tuesday after any election in any city making such a designation, each verification board within the city shall certify the returns of such city submitting a candidate or question at the election to the election authority so designated by the city to be its verification board, and such election authority shall announce the results of the election and certify the cumulative returns to the city in conformance with subsections 1 and 2 of this section not later than ten days thereafter.**

4. Not later than the second Tuesday after each election at which the name of a candidate for nomination or election to the office of president of the United States, United States senator, representative in Congress, governor, lieutenant governor, state senator, state representative, judge of the circuit court, secretary of state, attorney general, state treasurer, or state auditor, or at which an initiative, referendum, constitutional amendment or question of retaining a judge subject to the provisions of article V, section 29 of the state constitution, appears on the ballot in a jurisdiction, the election authority of the jurisdiction shall mail or deliver to the secretary of state the abstract of the votes given in its jurisdiction, by polling place or precinct, for each such office and on each such question. If mailed, the abstract shall be enclosed in a strong, sealed envelope or envelopes. On the outside of each envelope shall be printed: "Returns of election held in the county of (City of St. Louis, Kansas City) on the day of,", etc.

Approved June 27, 2002

SB 966 [SCS SB 966]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the St. Louis College of Pharmacy special license plate.

AN ACT to amend chapter 301, RSMo, by adding thereto one new section relating to special license plates.

SECTION

A. Enacting clause.
301.3042. St. Louis College of Pharmacy special license plate, application, fee.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 301, RSMo, is amended by adding thereto one new section, to be known as section 301.3042, to read as follows:

301.3042. ST. LOUIS COLLEGE OF PHARMACY SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any vehicle owner who has obtained an annual emblem-use authorization statement from the St. Louis College of Pharmacy may apply for St. Louis College of Pharmacy license plates for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The St. Louis College of Pharmacy hereby authorizes the use of its official emblem to be affixed on multiyear license plates as provided in this section. Any vehicle owner may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the St. Louis College of Pharmacy, the St. Louis College of Pharmacy shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the vehicle owner to the department of revenue at the time of registration of a motor vehicle.

3. Upon presentation of the annual statement and payment of a fifteen-dollar fee in addition to the regular registration fees and presentation of other documents which may be required by law, the department of revenue shall issue a license plate to the vehicle owner, which shall bear the emblem of the St. Louis College of Pharmacy in a form prescribed by the director, shall bear six letters or numbers and shall bear the words "ST. LOUIS COLLEGE OF PHARMACY" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. A fee for the issuance of personalized license plates pursuant to section 301.144, shall not be required for plates issued pursuant to this section.

4. A vehicle owner, who was previously issued a plate with the St. Louis College of Pharmacy emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the St. Louis College of Pharmacy emblem, as otherwise provided by law.

5. The director of revenue may promulgate rules and regulations for the administration of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

Approved June 28, 2002

SB 967 [SCS SB 967]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows spouses or dependents of deceased retired officers and employees of the police department receiving a pension to purchase insurance.

AN ACT to repeal section 84.160, RSMo, relating to police officers, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

84.160. Annual salary tables — overtime, how compensated — other employment benefits — unused vacation, compensation for certain officers.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 84.160, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 84.160, to read as follows:

84.160. ANNUAL SALARY TABLES — OVERTIME, HOW COMPENSATED — OTHER EMPLOYMENT BENEFITS — UNUSED VACATION, COMPENSATION FOR CERTAIN OFFICERS.

— 1. Based upon rank and length of service, the board of police commissioners may authorize maximum amounts of compensation for members of the police force in accordance with the following tables. The amounts of compensation set out in the following tables shall be the maximum amount of compensation payable to commissioned employees in each of the categories, except as expressly provided in this section.

2. From July 1, 2000, to June 30, 2001:

SALARY MATRIX - POLICE OFFICER THROUGH CHIEF OF POLICE - FISCAL YEAR

							Asst.	
Yrs.	P.O. Salary	Sgt. Salary	Lieut. Salary	Capt. Salary	Maj. Salary	Lt. Col. Salary	Chief Salary	Chief Salary
0	30564							
1	31730							
2	32809							
3	34812							
4	35803							
5	37090	45238						
6	38377	45380						
7	40847	48252	53180					
8	42620	50320	55442					
9	43608	51455	56677	61851				
10	43768	51615	56837	62011				
11	44272	51773	56995	62171	68115			
12	44439	51932	57156	62329	68274	70122	73845	87813
13	44597	52093	57314	62490	68432	72547	76269	88131
14	44756	52252	57474	62647	68591	72704	76427	88449
15	44916	52411	57632	62807	68751	72865	76588	88767
16	45074	52569	57791	62965	68910	73023	76746	89085
17	45235	52730	57952	63126	69070	73183	76906	89404
18	45394	52889	58110	63352	69228	73341	77065	89721
19	45552	53048	58271	63444	69388	73500	77223	90042
20	45711	53207	58428	63603	69547	73661	77384	90359
21	45870	53364	58588	63761	69707	73819	77541	90677
22	46030	53526	58748	63922	69865	73980	77702	90995
23	46190	53684	58907	64080	70023	74137	77861	91314
24	46348	53844	59067	64240	70183	74298	78020	91631
25	46508	54003	59224	64400	70343	74457	78180	91951
26	46666	54161	59384	64559	70503	74615	78338	92270
27	46828	54322	59543	64718	70661	74776	78498	92589
28	46985	54481	59703	64876	70819	74933	78657	92906
29	47144	54640	59861	65036	70980	75095	78816	93223
30	47304	54798	60021	65193	71139	75252	78977	93542

3. From July 1, 2001, until June 30, 2002:

SALARY MATRIX - POLICE OFFICER THROUGH CHIEF OF POLICE - FISCAL YEAR

Yrs.	P.O. Salary	Sgt. Salary	Lieut. Salary	Capt. Salary	Maj. Salary	Asst.		
						Lt. Col. Salary	Chief Salary	Chief Salary
0	31481							
1	32682							
2	33793							
3	35856							
4	36877							
5	38203	46595						
6	39529	46741						
7	42073	49700	54776					
8	43898	51829	57105					
9	45788	54028	59511	64943				
10	45957	54195	59678	65111				
11	46485	54363	59844	65279	71520			
12	46661	54529	60013	65446	71688	73629	77538	92204
13	46827	54697	60180	65614	71853	76173	80082	92537
14	46993	54865	60347	65780	72021	76339	80249	92871
15	47162	55031	60514	65947	72188	76508	80418	93205
16	47328	55198	60680	66114	72356	76674	80583	93540
17	47497	55366	60849	66282	72524	76843	80752	93874
18	47663	55533	61016	66519	72689	77008	80918	94207
19	47829	55700	61184	66616	72857	77175	81084	94543
20	47997	55867	61350	66783	73025	77343	81254	94878
21	48164	56033	61517	66950	73192	77510	81419	95211
22	48331	56202	61685	67117	73358	77679	81587	95545
23	48499	56369	61852	67285	73525	77844	81754	95880
24	48665	56535	62020	67452	73692	78014	81921	96212
25	48833	56703	62186	67620	73861	78179	82090	96548
26	49000	56869	62353	67787	74028	78346	82255	96883
27	49169	57038	62521	67953	74194	78515	82423	97218
28	49335	57205	62688	68121	74360	78680	82588	97552
29	49501	57371	62853	68288	74529	78849	82757	97884
30	49668	57539	63022	68453	74696	79014	82926	98220

4. Each of the above-mentioned salaries shall be payable in biweekly installments. Each officer of police and patrolman whose regular assignment requires nonuniformed attire may receive, in addition to his or her salary, an allowance not to exceed three hundred sixty dollars per annum payable biweekly. No additional compensation or compensatory time off for overtime, court time, or standby court time shall be paid or allowed to any officer of the rank of sergeant or above. Notwithstanding any other provision of law to the contrary, nothing in this section shall prohibit the payment of additional compensation pursuant to this subsection to officers of the ranks of sergeants and above, provided that funding for such compensation shall not:

(1) Be paid from the general funds of either the city or the board of police commissioners of the city; or

(2) Be violative of any federal law or other state law.

5. It is the duty of the municipal assembly or common council of the cities to make the necessary appropriation for the expenses of the maintenance of the police force in the manner herein and hereafter provided; provided, that in no event shall such municipal assembly or common council be required to appropriate for such purposes (including, but not limited to, costs

of funding pensions or retirement plans) for any fiscal year a sum in excess of any limitation imposed by article X, section 21, Missouri Constitution; and provided further, that such municipal assembly or common council may appropriate a sum in excess of such limitation for any fiscal year by an appropriations ordinance enacted in conformity with the provisions of the charter of such cities.

6. The board of police commissioners shall pay additional compensation for all hours of service rendered by probationary patrolmen and patrolmen in excess of the established regular working period, and the rate of compensation shall be one and one-half times the regular hourly rate of pay to which each member shall normally be entitled; except that, the court time and court standby time shall be paid at the regular hourly rate of pay to which each member shall normally be entitled. No credit shall be given or deductions made from payments for overtime for the purpose of retirement benefits.

7. Probationary patrolmen and patrolmen shall receive additional compensation for authorized overtime, court time and court standby time whenever the total accumulated time exceeds forty hours. The accumulated forty hours shall be taken as compensatory time off at the officer's discretion with the approval of his supervisor.

8. The allowance of compensation or compensatory time off for court standby time shall be computed at the rate of one-third of one hour for each hour spent on court standby time.

9. The board of police commissioners may effect programs to provide additional compensation to its employees for successful completion of academic work at an accredited college or university, in amounts not to exceed ten percent of their yearly salaries or for extra training and lead officer responsibilities in amounts not to exceed three percent of their yearly salaries for field training officer responsibilities and an additional three percent of their yearly salaries for lead officer responsibilities. The board may designate up to one hundred fifty employees as field training officers and up to fifty employees as lead officers.

10. The board of police commissioners:

(1) Shall provide or contract for life insurance coverage and for insurance benefits providing health, medical and disability coverage for officers and employees of the department;

(2) Shall provide or contract for insurance coverage providing salary continuation coverage for officers and employees of the police department;

(3) Shall provide health, medical, and life insurance coverage for retired officers and employees of the police department. **Health, medical and life insurance coverage shall be made available for purchase to the spouses or dependents of deceased retired officers and employees of the police department who receive pension benefits pursuant to sections 86.200 to 86.364, RSMo, at the rate that such dependent's or spouse's coverage would cost under the appropriate plan if the deceased were living;**

(4) May pay an additional shift differential compensation to members of the police force for evening and night tour of duty in an amount not to exceed ten percent of the officer's base hourly rate.

11. The board of police commissioners shall pay additional compensation to members of the police force up to and including the rank of police officer for any full hour worked between the hours of 11:00 p.m. and 7:00 a.m., in amounts equal to five percent of the officer's base hourly pay.

12. The board of police commissioners, from time to time and in its discretion, may pay additional compensation to police officers, sergeants and lieutenants by paying commissioned officers in the aforesaid ranks for accumulated, unused vacation time. Any such payments shall be made in increments of not less than forty hours, and at rates equivalent to the base straight-time rates being earned by said officers at the time of payment; except that, no such officer shall be required to accept payment for accumulated unused vacation time.

13. For each fiscal year between July 1, 2000, and June 30, 2002, the board of police commissioners may provide a salary increase for commissioned employees of years 0-8 in an

amount in excess of the maximum amounts set out in the tables in subsections 2 and 3 of this section, provided that the amount actually paid pursuant to this section shall not exceed three percent of the amount set out for the appropriate category in such tables.

14. For each fiscal year between July 1, 2000, and June 30, 2002, the board of police commissioners may provide a salary increase for commissioned employees of years 9-30 in an amount in excess of the maximum amounts set out in the tables in subsections 2 and 3 of this section, provided that the amount actually paid pursuant to this section shall not exceed one percent of the amount set out for the appropriate category in such tables.

Approved June 28, 2002

SB 969 [CCS HS#2 HCS SS SCS SB 969, 673 & 855]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Adds forcible rape and forcible sodomy to dangerous felonies; increases minimum sentence from five years to ten years.

AN ACT to repeal sections 43.540, 217.690, 547.170, 556.061, 565.225, 565.253, 566.010, 566.090, 589.400, 589.410, and 632.483, RSMo, and to enact in lieu thereof nineteen new sections relating to prosecution and prevention of sex crimes, with penalty provisions.

SECTION

- A. Enacting clause.
- 43.540. Criminal conviction record checks, patrol to conduct, when, procedure, information to be released, who may request — use limited to staff and volunteer applicants, confidentiality, violation, penalty.
- 43.653. Highway patrol to create and supervise — location of lab.
- 43.656. Declaration of need for lab.
- 43.659. Powers of highway patrol.
- 217.690. Board may order release or parole, when — personal hearing — standards — rules — minimum term for eligibility for parole, how calculated — first degree murder, eligibility for hearing — hearing procedure — notice — education requirements, exceptions.
- 547.170. Prisoner, when let to bail.
- 556.061. Code definitions.
- 565.200. Skilled nursing facility residents, sexual contact or intercourse with, penalties — consent not a defense.
- 565.225. Crime of stalking — definitions — penalties.
- 565.252. Invasion of privacy, first degree, penalty.
- 565.253. Crime of invasion of privacy, second degree, penalties.
- 566.010. Chapter 566 and chapter 568 definitions.
- 566.090. Sexual misconduct, first degree, penalties.
- 566.111. Unlawful sex with an animal, penalties.
- 566.145. Sexual contact with an inmate, penalty — consent not a defense.
- 566.151. Enticement of a child, penalties.
- 589.400. Registration of certain offenders with chief law officers of county of residence — time limitation — cities may request copy of registration.
- 589.410. Highway patrol to be notified, information to be made a part of MULES.
- 632.483. Notice to attorney general, when — contents of notice — immunity from liability, when — multidisciplinary team established — prosecutors' review committee established.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 43.540, 217.690, 547.170, 556.061, 565.225, 565.253, 566.010, 566.090, 589.400, 589.410, 632.483, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 43.540, 43.653, 43.656, 43.659,

217.690, 547.170, 556.061, 565.200, 565.225, 565.252, 565.253, 566.010, 566.090, 566.111, 566.145, 566.151, 589.400, 589.410 and 632.483, to read as follows:

43.540. CRIMINAL CONVICTION RECORD CHECKS, PATROL TO CONDUCT, WHEN, PROCEDURE, INFORMATION TO BE RELEASED, WHO MAY REQUEST — USE LIMITED TO STAFF AND VOLUNTEER APPLICANTS, CONFIDENTIALITY, VIOLATION, PENALTY. — 1. As used in this section, the following terms mean:

(1) "Criminal record review", a request to the highway patrol for information concerning any criminal history record for a felony or misdemeanor **and any offense for which the person has registered pursuant to sections 589.400 to 589.425, RSMo;**

(2) "Patient or resident", a person who by reason of aging, illness, disease or physical or mental infirmity receives or requires care or services furnished by a provider, as defined in this section, or who resides or boards in, or is otherwise kept, cared for, treated or accommodated in a facility as defined in section 198.006, RSMo, for a period exceeding twenty-four consecutive hours;

(3) "Patrol", the Missouri state highway patrol;

(4) "Provider", any licensed day care home, licensed day care center, licensed child placing agency, licensed residential care facility for children, licensed group home, licensed foster family group home, licensed foster family home or any operator licensed pursuant to chapter 198, RSMo, any employer of nurses or nursing assistants for temporary or intermittent placement in health care facilities or any entity licensed pursuant to chapter 197, RSMo;

(5) "Youth services agency", any public or private agency, school, or association which provides programs, care or treatment for or which exercises supervision over minors.

2. Upon receipt of a written request from a private investigatory agency, a youth service agency or a provider, with the written consent of the applicant, the highway patrol shall conduct a criminal record review of an applicant for a paid or voluntary position with the agency or provider if such position would place the applicant in contact with minors, patients or residents.

3. Any request for information made pursuant to the provisions of this section shall be on a form provided by the highway patrol and shall be signed by the person who is the subject of the request.

4. The patrol shall respond in writing to the youth service agency or provider making a request for information pursuant to this section and shall inform such youth service agency or provider of the **address and offense for which the offender registered pursuant to sections 589.400 to 589.425, RSMo, and the nature of the offense, and the date, place and court for any other offenses contained in the criminal record review.** Notwithstanding any other provision of law to the contrary, the youth service agency or provider making such request shall have access to all records of arrests resulting in an adjudication where the applicant was found guilty or entered a plea of guilty or nolo contendere in a prosecution pursuant to chapter 565, RSMo, sections 566.010 to 566.141, RSMo, or under the laws of any state or the United States for offenses described in sections 566.010 to 566.141, RSMo, or chapter 565, RSMo, during the period of any probation imposed by the sentencing court.

5. Any information received by a provider or a youth services agency pursuant to this section shall be used solely for the provider's or youth service agency's internal purposes in determining the suitability of an applicant or volunteer. The information shall be confidential and any person who discloses the information beyond the scope allowed in this section is guilty of a class A misdemeanor. The patrol shall inform, in writing, the provider or youth services agency of the requirements of this subsection and the penalties provided in this subsection at the time it releases any information pursuant to this section.

43.653. HIGHWAY PATROL TO CREATE AND SUPERVISE — LOCATION OF LAB. — The highway patrol is hereby authorized to create, direct, control and supervise the "Missouri Regional Computer Forensics Lab" (RCFL). The highway patrol has the ability to bring

together federal, state, and local resources to fight computer crimes for the purposes listed in section 43.656. The RCFL shall be located within a twenty-five mile radius of an international airport.

43.656. DECLARATION OF NEED FOR LAB. — It is hereby found and declared that:

(1) With the widespread use of computers, the Internet and electronic devices to commit crimes and the critical lack of resources at state and local levels;

(2) Modern day criminals have learned to exploit the Internet and electronic communication to leverage computer technology to reach a virtually unlimited number of victims while maintaining a maximum level of anonymity, computer crimes will continue to mount, especially in, but not limited to, the areas of child pornography and sexual offenses involving children, consumer fraud and harassment.

(3) It is necessary for the protection of the citizens of this state that provisions be made for the establishment of the Missouri regional computer forensics lab to prevent and reduce computer, Internet and other electronically-based crimes.

43.659. POWERS OF HIGHWAY PATROL. — The highway patrol shall have the power, as necessary or convenient to carry out and effectuate the purposes and provisions of sections 43.653 to 43.656, to enter into agreements or other transactions with, negotiate memorandum of understanding with all governmental agencies, participate in interstate computer forensic matters as they relate to the purposes of the center, both within and outside the state when necessary or appropriate, or when required to do so by a proper authority and accept grants and the cooperation of, the United States or any agency or instrumentality thereof or of this state or any agency or instrumentality thereof, in furtherance of the purposes of this section, and to do any and all things necessary in order to avail itself of such aid and cooperation.

217.690. BOARD MAY ORDER RELEASE OR PAROLE, WHEN — PERSONAL HEARING — STANDARDS — RULES — MINIMUM TERM FOR ELIGIBILITY FOR PAROLE, HOW CALCULATED — FIRST DEGREE MURDER, ELIGIBILITY FOR HEARING — HEARING PROCEDURE — NOTICE — EDUCATION REQUIREMENTS, EXCEPTIONS. — 1. When in its opinion there is reasonable probability that an offender of a correctional center can be released without detriment to the community or to himself, the board may in its discretion release or parole such person except as otherwise prohibited by law. All paroles shall issue upon order of the board, duly adopted.

2. Before ordering the parole of any offender, the board shall have the offender appear before a hearing panel and shall conduct a personal interview with him, unless waived by the offender. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered a reduction of sentence or a pardon. An offender shall be placed on parole only when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every offender while on parole shall remain in the legal custody of the department but shall be subject to the orders of the board.

3. The board shall adopt rules not inconsistent with law, in accordance with section 217.040, with respect to the eligibility of offenders for parole, the conduct of parole hearings or conditions to be imposed upon paroled offenders. Whenever an order for parole is issued it shall recite the conditions of such parole.

4. When considering parole for an offender with consecutive sentences, the minimum term for eligibility for parole shall be calculated by adding the minimum terms for parole eligibility for each of the consecutive sentences, except the minimum term for parole eligibility shall not exceed the minimum term for parole eligibility for an ordinary life sentence.

5. Any offender under a sentence for first degree murder who has been denied release on parole after a parole hearing shall not be eligible for another parole hearing until at least three

years from the month of the parole denial; however, this subsection shall not prevent a release pursuant to subsection 4 of section 558.011, RSMo.

6. Parole hearings shall, at a minimum, contain the following procedures:

(1) The victim or person representing the victim who attends a hearing may be accompanied by one other person;

(2) The victim or person representing the victim who attends a hearing shall have the option of giving testimony in the presence of the inmate or to the hearing panel without the inmate being present;

(3) The victim or person representing the victim may call or write the parole board rather than attend the hearing;

(4) The victim or person representing the victim may have a personal meeting with a board member at the board's central office; [and]

(5) The judge, prosecuting attorney or circuit attorney and a representative of the local law enforcement agency investigating the crime shall be allowed to attend the hearing or provide information to the hearing panel in regard to the parole consideration; **and**

(6) The board shall evaluate information listed in the juvenile sex offender registry pursuant to section 211.425, RSMo, provided the offender is between the ages of seventeen and twenty-one, as it impacts the safety of the community.

7. The board shall notify any person of the results of a parole eligibility hearing if the person indicates to the board a desire to be notified.

8. The board may, at its discretion, require any offender seeking parole to meet certain conditions during the term of that parole so long as said conditions are not illegal or impossible for the offender to perform. These conditions may include an amount of restitution to the state for the cost of that offender's incarceration.

9. Nothing contained in this section shall be construed to require the release of an offender on parole nor to reduce the sentence of an offender heretofore committed.

10. Beginning January 1, 2001, the board shall not order a parole unless the offender has obtained a high school diploma or its equivalent, or unless the board is satisfied that the offender, while committed to the custody of the department, has made an honest good-faith effort to obtain a high school diploma or its equivalent; provided that the director may waive this requirement by certifying in writing to the board that the offender has actively participated in mandatory education programs or is academically unable to obtain a high school diploma or its equivalent.

547.170. PRISONER, WHEN LET TO BAIL. — In all cases where an appeal or writ of error is prosecuted from a judgment in a criminal cause, except where the defendant is under sentence of death or imprisonment in the penitentiary for life, or a sentence of imprisonment for a violation of sections 195.222, RSMo, 565.021, RSMo, 565.050, RSMo, [or] subsections 1 and 2 of section 566.030, **sections 566.032, 566.060 and 566.062**, RSMo, any court or officer authorized to order a stay of proceedings under the preceding provisions may allow a writ of habeas corpus, to bring up the defendant, and may thereupon let him to bail upon a recognizance, with sufficient sureties, to be approved by such court or judge.

556.061. CODE DEFINITIONS. — In this code, unless the context requires a different definition, the following shall apply:

(1) "Affirmative defense" has the meaning specified in section 556.056;

(2) "Burden of injecting the issue" has the meaning specified in section 556.051;

(3) "Commercial film and photographic print processor", any person who develops exposed photographic film into negatives, slides or prints, or who makes prints from negatives or slides, for compensation. The term commercial film and photographic print processor shall include all employees of such persons but shall not include a person who develops film or makes prints for a public agency;

(4) "Confinement":

(a) A person is in confinement when such person is held in a place of confinement pursuant to arrest or order of a court, and remains in confinement until:

- a. A court orders the person's release; or
- b. The person is released on bail, bond, or recognizance, personal or otherwise; or
- c. A public servant having the legal power and duty to confine the person authorizes his release without guard and without condition that he return to confinement;

(b) A person is not in confinement if:

- a. The person is on probation or parole, temporary or otherwise; or
- b. The person is under sentence to serve a term of confinement which is not continuous, or is serving a sentence under a work-release program, and in either such case is not being held in a place of confinement or is not being held under guard by a person having the legal power and duty to transport the person to or from a place of confinement;

(5) "Consent": consent or lack of consent may be expressed or implied. Assent does not constitute consent if:

(a) It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor; or

(b) It is given by a person who by reason of youth, mental disease or defect, or intoxication, is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

(c) It is induced by force, duress or deception;

(6) "Criminal negligence" has the meaning specified in section 562.016, RSMo;

(7) "Custody", a person is in custody when the person has been arrested but has not been delivered to a place of confinement;

(8) "Dangerous felony" means the felonies of arson in the first degree, assault in the first degree, **attempted forcible rape if physical injury results, attempted forcible sodomy if physical injury results**, forcible rape, forcible sodomy, kidnapping, murder in the second degree and robbery in the first degree;

(9) "Dangerous instrument" means any instrument, article or substance, which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury;

(10) "Deadly weapon" means any firearm, loaded or unloaded, or any weapon from which a shot, readily capable of producing death or serious physical injury, may be discharged, or a switchblade knife, dagger, billy, blackjack or metal knuckles;

(11) "Felony" has the meaning specified in section 556.016;

(12) "Forcible compulsion" means either:

- (a) Physical force that overcomes reasonable resistance; or
- (b) A threat, express or implied, that places a person in reasonable fear of death, serious physical injury or kidnapping of such person or another person;

(13) "Incapacitated" means that physical or mental condition, temporary or permanent, in which a person is unconscious, unable to appraise the nature of such person's conduct, or unable to communicate unwillingness to an act. A person is not incapacitated with respect to an act committed upon such person if he or she became unconscious, unable to appraise the nature of such person's conduct or unable to communicate unwillingness to an act, after consenting to the act;

(14) "Infraction" has the meaning specified in section 556.021;

(15) "Inhabitable structure" has the meaning specified in section 569.010, RSMo;

(16) "Knowingly" has the meaning specified in section 562.016, RSMo;

(17) "Law enforcement officer" means any public servant having both the power and duty to make arrests for violations of the laws of this state, and federal law enforcement officers authorized to carry firearms and to make arrests for violations of the laws of the United States;

(18) "Misdemeanor" has the meaning specified in section 556.016;

(19) "Offense" means any felony, misdemeanor or infraction;

(20) "Physical injury" means physical pain, illness, or any impairment of physical condition;

(21) "Place of confinement" means any building or facility and the grounds thereof wherein a court is legally authorized to order that a person charged with or convicted of a crime be held;

(22) "Possess" or "possessed" means having actual or constructive possession of an object with knowledge of its presence. A person has actual possession if such person has the object on his or her person or within easy reach and convenient control. A person has constructive possession if such person has the power and the intention at a given time to exercise dominion or control over the object either directly or through another person or persons. Possession may also be sole or joint. If one person alone has possession of an object, possession is sole. If two or more persons share possession of an object, possession is joint;

(23) "Public servant" means any person employed in any way by a government of this state who is compensated by the government by reason of such person's employment, any person appointed to a position with any government of this state, or any person elected to a position with any government of this state. It includes, but is not limited to, legislators, jurors, members of the judiciary and law enforcement officers. It does not include witnesses;

(24) "Purposely" has the meaning specified in section 562.016, RSMo;

(25) "Recklessly" has the meaning specified in section 562.016, RSMo;

(26) "Ritual" or "ceremony" means an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity;

(27) "Serious emotional injury", an injury that creates a substantial risk of temporary or permanent medical or psychological damage, manifested by impairment of a behavioral, cognitive or physical condition. Serious emotional injury shall be established by testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable degree of medical or psychological certainty;

(28) "Serious physical injury" means physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body;

(29) "Sexual conduct" means acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification;

(30) "Sexual contact" means any touching of the genitals or anus of any person, or the breast of any female person, or any such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person;

(31) "Sexual performance", any performance, or part thereof, which includes sexual conduct by a child who is less than seventeen years of age;

(32) "Voluntary act" has the meaning specified in section 562.011, RSMo.

565.200. SKILLED NURSING FACILITY RESIDENTS, SEXUAL CONTACT OR INTERCOURSE WITH, PENALTIES — CONSENT NOT A DEFENSE. — 1. Any owner or employee of a skilled nursing facility, as defined in section 198.006, RSMo, or an Alzheimer's special unit or program, as defined in section 198.505, RSMo, who:

(1) Has sexual contact, as defined in section 566.010, RSMo, with a resident is guilty of a class B misdemeanor. Any person who commits a second or subsequent violation of this subdivision is guilty of a class A misdemeanor; or

(2) Has sexual intercourse or deviate sexual intercourse, as defined in section 566.010, RSMo, with a resident is guilty of a class A misdemeanor. Any person who commits a second or subsequent violation of this subdivision is guilty of a class D felony.

2. The provisions of this section shall not apply to an owner or employee of a skilled nursing facility or Alzheimer's special unit or program who engages in sexual conduct, as defined in section 566.010, RSMo, with a resident to whom the owner or employee is married.

3. Consent of the victim is not a defense to a prosecution pursuant to this section.

565.225. CRIME OF STALKING — DEFINITIONS — PENALTIES. — 1. As used in this section, the following terms shall mean:

(1) "Course of conduct", a pattern of conduct composed of a series of acts, **which may include electronic or other communications**, over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct". Such constitutionally protected activity includes picketing or other organized protests;

(2) "Credible threat", a threat made with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety. The threat must be against the life of, or a threat to cause physical injury to, a person **and may include a threat communicated to the targeted person in writing, including electronic communications, by telephone, or by the posting of a site or message that is accessible via computer;**

(3) "Harasses", to engage in a course of conduct directed at a specific person that serves no legitimate purpose, that would cause a reasonable person to suffer substantial emotional distress, and that actually causes substantial emotional distress to that person.

2. Any person who purposely and repeatedly harasses or follows with the intent of harassing another person commits the crime of stalking.

3. Any person who purposely and repeatedly harasses or follows with the intent of harassing or harasses another person, and makes a credible threat with the intent to place that person in reasonable fear of death or serious physical injury, commits the crime of aggravated stalking.

4. The crime of stalking shall be a class A misdemeanor for the first offense. A second or subsequent offense within five years of a previous finding or plea of guilt against any victim shall be a class D felony.

5. The crime of aggravated stalking shall be a class D felony for the first offense. A second or subsequent offense within five years of a previous finding or plea of guilt against any victim shall be a class C felony.

6. Any law enforcement officer may arrest, without a warrant, any person he or she has probable cause to believe has violated the provisions of this section.

565.252. INVASION OF PRIVACY, FIRST DEGREE, PENALTY. — 1. A person commits the crime of invasion of privacy in the first degree if such person:

(1) Knowingly photographs or films another person, without the person's knowledge and consent, while the person being photographed or filmed is in a state of full or partial nudity and is in a place where one would have a reasonable expectation of privacy, and the person subsequently distributes the photograph or film to another or transmits the image contained in the photograph or film in a manner that allows access to that image via a computer; or

(2) Knowingly disseminates or permits the dissemination by any means, to another person, of a videotape, photograph, or film obtained in violation of subdivision (1) of subsection 1 of this section or in violation of section 565.253.

2. Invasion of privacy in the first degree is a class D felony.

565.253. CRIME OF INVASION OF PRIVACY, SECOND DEGREE, PENALTIES. — 1. A person commits the crime of invasion of privacy in the second degree if [he]:

(1) Such person knowingly views, photographs or films another person, without that person's knowledge and consent, while the person being viewed, photographed or filmed is in a state of full or partial nudity and is in a place where [he] **one** would have a reasonable expectation of privacy; or

(2) **Such person knowingly uses a concealed camcorder or photographic camera of any type to secretly videotape, photograph, or record by electronic means, another person under or through the clothing worn by that other person for the purpose of viewing the body of or the undergarments worn by that other person without that person's consent.**

2. Invasion of privacy in the second degree pursuant to subdivision (1) of subsection 1 of this section is a class A misdemeanor; unless more than one person is viewed, photographed or filmed in full or partial nudity in violation of sections 565.250 to 565.257 during the same course of conduct, in which case invasion of privacy is a class D felony; and unless committed by a [prior invasion of privacy offender] **a person who has previously pled guilty to or been found guilty of invasion of privacy**, in which case invasion of privacy is a class [C] D felony. **Invasion of privacy in the second degree pursuant to subdivision (2) of subsection 1 of this section is a class A misdemeanor; unless more than one person is secretly videotaped, photographed or recorded in violation of sections 565.250 to 565.257 during the same course of conduct, in which case invasion of privacy is a class D felony; and unless committed by a person who has previously pled guilty to or been found guilty of invasion of privacy, in which case invasion of privacy is a class C felony.** Prior pleas or findings of guilt shall be pled and proven in the same manner required by the provisions of section 558.021, RSMo.

566.010. CHAPTER 566 AND CHAPTER 568 DEFINITIONS. — As used in this chapter and chapter 568, RSMo, the following terms mean:

(1) "Deviate sexual intercourse", any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the male or female sex organ or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person;

(2) "Sexual conduct", sexual intercourse, deviate sexual intercourse or sexual contact;

(3) "Sexual contact", any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, **or such touching through the clothing**, for the purpose of arousing or gratifying sexual desire of any person;

(4) "Sexual intercourse", any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results.

566.090. SEXUAL MISCONDUCT, FIRST DEGREE, PENALTIES. — 1. A person commits the crime of sexual misconduct in the first degree if he has deviate sexual intercourse with another person of the same sex or he purposely subjects another person to sexual contact [or engages in conduct which would constitute sexual contact except that the touching occurs through the clothing] without that person's consent.

2. Sexual misconduct in the first degree is a class A misdemeanor unless the actor has previously been convicted of an offense under this chapter or unless in the course thereof the actor displays a deadly weapon in a threatening manner or the offense is committed as a part of a ritual or ceremony, in which case it is a class D felony.

566.111. UNLAWFUL SEX WITH AN ANIMAL, PENALTIES. — 1. **A person commits the crime of unlawful sex with an animal if that person engages in sexual conduct with an animal or engages in sexual conduct with an animal for commercial or recreational purposes.**

2. **Unlawful sex with an animal is a class A misdemeanor unless the defendant has previously been convicted under this section, in which case the crime is a class D felony.**

3. In addition to any penalty imposed or as a condition of probation the court may:

(1) Prohibit the defendant from harboring animals or residing in any household where animals are present during the period of probation or if probation is not granted for a period of time not to exceed two years after the defendant's sentence is completed;

(2) Order all animals in the defendant's possession subject to a civil forfeiture action under chapter 513, RSMo; or

(3) Order psychological evaluation and counseling of the defendant at the defendant's expense.

4. Nothing in this section shall be construed to prohibit generally accepted animal husbandry, farming and ranching practices or generally accepted veterinary medical practices.

5. For purposes of this section, the following terms mean:

(1) "Animal", every creature, either alive or dead, other than a human being;

(2) "Sexual conduct with an animal", any touching of an animal with the genitals or any touching of the genitals or anus of an animal for the purpose of arousing or gratifying the person's sexual desire.

566.145. SEXUAL CONTACT WITH AN INMATE, PENALTY — CONSENT NOT A DEFENSE.

— 1. A person commits the crime of sexual contact with an inmate if such person is an employee of, or assigned to work in, any jail, prison or correctional facility and such person has sexual intercourse or deviate sexual intercourse with an inmate or resident of the facility.

2. Sexual contact with an inmate is a class D felony.

3. The victim's consent is not an affirmative defense.

566.151. ENTICEMENT OF A CHILD, PENALTIES. — 1. A person at least twenty-one years of age or older commits the crime of enticement of a child if that person persuades, solicits, coaxes, entices, or lures whether by words, actions or through communication via the Internet or any electronic communication, any person who is less than fifteen years of age for the purpose of engaging in sexual conduct with a child.

2. It is not an affirmative defense to a prosecution for a violation of this section that the other person was a peace officer masquerading as a minor.

3. Attempting to entice a child is a class D felony.

4. Enticement of a child is a class C felony unless the person has previously pled guilty to or been found guilty of violating the provisions of this section, section 568.045, 568.050, or section 568.060, RSMo, or chapter 566, RSMo, in which case it is a class B felony.

589.400. REGISTRATION OF CERTAIN OFFENDERS WITH CHIEF LAW OFFICERS OF COUNTY OF RESIDENCE — TIME LIMITATION — CITIES MAY REQUEST COPY OF REGISTRATION. — 1. Sections 589.400 to 589.425 shall apply to:

(1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty to committing, or attempting to commit, [an] **a felony offense of chapter 566, RSMo, or any offense of chapter 566, RSMo, where the victim is a minor;** or

(2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty to committing, or attempting to commit one or more of the following offenses: kidnapping, **pursuant to section 565.110, RSMo; felonious restraint;** promoting prostitution in the first degree; promoting prostitution in the second degree; promoting prostitution in the third degree; incest; abuse of a child [used], **pursuant to section 568.060, RSMo; use of a child in a sexual performance;** or promoting sexual performance by a child; and committed or attempted to commit the offense against a victim who is a minor, defined for the purposes of sections 589.400 to 589.425 as a person under eighteen years of age; or

(3) Any person who, since July 1, 1979, has been committed to the department of mental health as a criminal sexual psychopath; or

(4) Any person who, since July 1, 1979, has been found not guilty as a result of mental disease or defect of any offense listed in subdivision (1) or (2) of this subsection; or

(5) Any person who is a resident of this state [and] **who has, since July 1, 1979, or is hereafter convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state or under federal jurisdiction to committing, or attempting to commit, an offense which, if committed in this state, would be a violation of chapter 566, RSMo, or a felony violation of any offense listed in subdivision (2) of this subsection** or has been or is required to register in another state or has been or is required to register under federal or military law; or

(6) Any person who has been or is required to register in another state or has been or is required to register under federal or military law and who works or attends school or training on a full-time or on a part-time basis in Missouri. Part-time in this subdivision means for more than fourteen days in any twelve-month period.

2. Any person to whom sections 589.400 to 589.425 apply shall, within ten days of [coming into any county] **conviction, release from incarceration, or placement upon probation**, register with the chief law enforcement official of the county in which such person resides **unless such person has already registered in that county for the same offense. Any person to whom sections 589.400 to 589.425 apply if not currently registered in their county of residence shall register with the chief law enforcement official of such county within ten days of the effective date of this section.** The chief law enforcement official shall forward a copy of the registration form required by section 589.407 to a city, town or village law enforcement agency located within the county of the chief law enforcement official, if so requested. Such request may ask the chief law enforcement official to forward copies of all registration forms filed with such official. The chief law enforcement official may forward a copy of such registration form to any city, town or village law enforcement agency, if so requested.

3. The registration requirements of sections 589.400 through 589.425 are lifetime registration requirements unless all offenses requiring registration are reversed, vacated or set aside or unless the registrant is pardoned of the offenses requiring registration.

589.410. HIGHWAY PATROL TO BE NOTIFIED, INFORMATION TO BE MADE A PART OF MULES. — The chief law enforcement official shall forward the completed offender registration form to the Missouri state highway patrol within three days. The patrol shall enter the information into the Missouri uniform law enforcement system (MULES) where it is available to members of the criminal justice system, **and other entities as provided by law**, upon inquiry.

632.483. NOTICE TO ATTORNEY GENERAL, WHEN — CONTENTS OF NOTICE — IMMUNITY FROM LIABILITY, WHEN — MULTIDISCIPLINARY TEAM ESTABLISHED — PROSECUTORS' REVIEW COMMITTEE ESTABLISHED. — 1. When it appears that a person may meet the criteria of a sexually violent predator, the agency with jurisdiction shall give written notice of such to the attorney general and the multidisciplinary team established in subsection 4 of this section. Written notice shall be given:

(1) Within three hundred sixty days prior to the anticipated release from a correctional center of the department of corrections of a person who has been convicted of a sexually violent offense, except that in the case of persons who are returned to prison for no more than one hundred eighty days as a result of revocation of postrelease supervision, written notice shall be given as soon as practicable following the person's readmission to prison;

(2) At any time prior to the release of a person who has been found not guilty by reason of mental disease or defect of a sexually violent offense; or

(3) At any time prior to the release of a person who was committed as a criminal sexual psychopath pursuant to section 632.475 and statutes in effect before August 13, 1980.

2. The agency with jurisdiction shall [inform] **provide** the attorney general and the multidisciplinary team established in subsection 4 of this section [of] **with** the following:

(1) The person's name, identifying factors, anticipated future residence and offense history; [and]

(2) Documentation of institutional adjustment and any treatment received or refused, including the Missouri sexual offender program; **and**

(3) A determination by either a psychiatrist or a psychologist as defined in section 632.005, as to whether the person meets the definition of a sexually violent predator.

3. The agency with jurisdiction, its employees, officials, members of the multidisciplinary team established in subsection 4 of this section, members of the prosecutor's review committee appointed as provided in subsection 5 of this section and individuals contracting or appointed to perform services hereunder shall be immune from liability for any conduct performed in good faith and without gross negligence pursuant to the provisions of sections 632.480 to 632.513.

4. The director of the department of mental health and the director of the department of corrections shall establish a multidisciplinary team consisting of no more than seven members, at least one from the department of corrections and the department of mental health, and which may include individuals from other state agencies to review available records of each person referred to such team pursuant to subsection 1 of this section. The team, within thirty days of receiving notice, shall assess whether or not the person meets the definition of a sexually violent predator. The team shall notify the attorney general of its assessment.

5. The prosecutors coordinators training council established pursuant to section 56.760, RSMo, shall appoint a five-member prosecutors' review committee composed of a cross section of county prosecutors from urban and rural counties. No more than three shall be from urban counties, and one member shall be the prosecuting attorney of the county in which the person was convicted or committed pursuant to chapter 552, RSMo. The committee shall review the records of each person referred to the attorney general pursuant to subsection 1 of this section. The prosecutors' review committee shall make a determination of whether or not the person meets the definition of a sexually violent predator. The determination of the prosecutors' review committee or any member pursuant to this section or section 632.484 shall not be admissible evidence in any proceeding to prove whether or not the person is a sexually violent predator. The assessment of the multidisciplinary team shall be made available to the attorney general and the prosecutors' review committee.

Approved July 10, 2002

SB 974 [SB 974]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows the Department of Transportation to issue special permits for wide vehicles.

AN ACT to repeal section 304.200, RSMo, relating to length limitations on certain vehicles, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

304.200. Special permits for oversize or overweight loads — rules for issuing — when valid.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 304.200, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.200, to read as follows:

304.200. SPECIAL PERMITS FOR OVERSIZE OR OVERWEIGHT LOADS — RULES FOR ISSUING — WHEN VALID. — 1. The chief engineer of the state department of transportation, for good cause shown and when the public safety or public interest so justifies, shall issue special permits for vehicles or equipment exceeding the limitations on width, length, height and weight herein specified, or which are unable to maintain minimum speed limits. Such permits shall be issued only for a single trip or for a definite period, not beyond the date of expiration of the vehicle registration, and shall designate the highways and bridges which may be used pursuant to the authority of such permit.

2. The chief engineer of the state department of transportation shall upon proper application and at no charge issue a special permit to any person allowing the movement on state and federal highways of farm products between sunset and sunrise not in excess of fourteen feet in width. Special permits allowing movement of oversize loads of farm products shall allow for movement between sunset and sunrise, subject to appropriate requirements for safety lighting on the load, appropriate limits on load dimensions and appropriate consideration of high traffic density between sunset and sunrise on the route to be traveled. [The chief engineer may also issue upon proper application a special permit to any person allowing the movement on the state and federal highways of vehicles hauling lumber products and earth-moving equipment not in excess of fourteen feet in width.] The chief engineer may also issue upon proper application a special permit to any person allowing the movement on the state and federal highways of concrete pump trucks or well-drillers equipment. For the purposes of this section, "farm products" shall have the same meaning as provided in section 400.9-109, RSMo.

3. Rules and regulations for the issuance of special permits shall be prescribed by the state highways and transportation commission and filed with the secretary of state. No rule or portion of a rule promulgated pursuant to the authority of section 304.010 and this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

4. The officer in charge of the maintenance of the streets of any municipality may issue such permits for the use of the streets by such vehicles within the limits of such municipalities.

5. In order to transport manufactured homes, as defined in section 700.010, RSMo, on the roads, highways, bridges and other thoroughfares within this state, only the applicable permits required by this section shall be obtained.

Approved July 3, 2002

SB 976 [SB 976]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires one member of the State Board of Health to be a chiropractor.

AN ACT to repeal section 191.400, RSMo, relating to the state board of health, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

191.400. State board of health — appointment — terms — qualifications — limitation on other employment, exception — vacancies — compensation — meetings.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 191.400, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 191.400, to read as follows:

191.400. STATE BOARD OF HEALTH — APPOINTMENT — TERMS — QUALIFICATIONS — LIMITATION ON OTHER EMPLOYMENT, EXCEPTION — VACANCIES — COMPENSATION — MEETINGS. — 1. There is hereby created a "State Board of Health" which shall consist of seven members, who shall be appointed by the governor, by and with the advice and consent of the senate. No member of the state board of health shall hold any other office or employment under the state of Missouri other than in a consulting status relevant to the member's professional status, licensure or designation. Not more than four of the members of the state board of health shall be from the same political party.

2. Each member shall be appointed for a term of four years; except that of the members first appointed, two shall be appointed for a term of one year, two for a term of two years, two for a term of three years, and one for a term of four years. The successors of each shall be appointed for full terms of four years. No person may serve on the state board of health for more than two terms. The terms of all members shall continue until their successors have been duly appointed and qualified. Three of the persons appointed to the state board of health shall be persons who are physicians and surgeons licensed by the state board of registration for the healing arts of Missouri. One of the persons appointed to the state board of health shall be a dentist licensed by the Missouri dental board. [Three] **One of the persons appointed to the state board of health shall be a chiropractic physician licensed by the Missouri state board of chiropractic examiners.** Two of the persons appointed to the state board of health shall be persons other than those licensed by the state board of registration for the healing arts [or], the Missouri dental board, **or the Missouri state board of chiropractic examiners** and shall be representative of those persons, professions and businesses which are regulated and supervised by the department of health and senior services and the state board of health. If a vacancy occurs in the appointed membership, the governor may appoint a member for the remaining portion of the unexpired term created by the vacancy. If the vacancy occurs while the senate is not in session, the governor shall make a temporary appointment subject to the approval of the senate when it next convenes. The members shall receive actual and necessary expenses plus twenty-five dollars per day for each day of actual attendance.

3. The board shall elect from among its membership a [chairman] **chairperson** and a vice [chairman] **chairperson**, who shall act as [chairman] **chairperson** in his **or her** absence. The board shall meet at the call of the [chairman] **chairperson**. The [chairman] **chairperson** may call meetings at such times as he **or she** deems advisable, and shall call a meeting when requested to do so by three or more members of the board.

Approved July 2, 2002

SB 984 [CCS HS SS#2 SCS SB 984 & 985]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

This act extends the primacy fee to September 1, 2007.

AN ACT to repeal sections 142.028, 247.030, 247.031, 247.040, 247.217, 247.220, 260.200, 323.060, 393.847, 414.032, 640.100, 643.220, 644.016, 644.036, 644.051 and 644.052,

RSMo, and to enact in lieu thereof twenty-five new sections relating to environmental regulation.

SECTION

- A. Enacting clause.
- 142.028. Definitions — fuel ethanol producer defined — Missouri qualified producer incentive fund created, purpose — administration of fund — grants to producers, amount, computation, paid when — application for grant, content, qualifications, bonding — rules authorized.
- 204.472. Sewer service to be provided by agreement for certain annexed areas, procedure (Poplar Bluff, Butler County)
- 247.030. Territory included in district, contiguous — boundaries of districts, how changed — extension or enlargement of district, how.
- 247.031. Detachment from district, when — procedure — costs — petition form.
- 247.040. Formation of public water supply district — procedure.
- 247.217. Consolidation, procedure, petition, notice — subdistricts, how formed — election — directors, terms, eligibility — property, how handled.
- 247.220. Dissolution of district — procedure — election — disposition of property and debts.
- 260.200. Definitions.
- 278.258. Detachment from watershed subdistrict, procedure — certification by trustees.
- 323.060. Retail distributors to be registered — storage capacity requirement — nonresidents to comply — immunity from liability, when — public utilities, exemption.
- 393.847. Department of natural resources, jurisdiction, supervision, powers and duties — public service commission jurisdiction, limitations.
- 414.032. Requirements, standards, certain fuels — director may inspect fuels, purpose.
- 414.043. MTBE content limit for gasoline, when.
- 414.365. Program established for biodiesel fuel use in MoDOT vehicles, goals, rules.
- 640.100. Commission, duties, promulgate rules — political subdivisions may set certain additional standards — certain departments test water supply, when — fees, amount — federal compliance — customer fees, effective, expires, when.
- 640.825. Burden of proof in matters heard by department, exceptions.
- 643.220. Missouri emissions banking and trading program established by commission — promulgation of rules.
- 644.016. Definitions.
- 644.036. Public hearings — rules and regulations, how promulgated — listings under Clean Water Act, requirements.
- 644.051. Prohibited acts — permits required, when, fee — bond required of permit holders, when — permit application procedures — rulemaking — limitation on use of permit fee moneys.
- 644.052. Permit types, fees, amounts — requests for permit modifications — requests for federal clean water certifications.
- 644.578. Commission may borrow additional \$10,000,000 for purposes of water pollution control, improvement of drinking water, and storm water control.
- 644.579. Commission may borrow additional \$10,000,000 for purposes of rural water and sewer grants and loans.
- 644.580. Commission may borrow additional \$20,000,000 for purposes of storm water control.
 - 1. Emissions limitation for certain coal-fired cyclone boilers — expiration date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 142.028, 247.030, 247.031, 247.040, 247.217, 247.220, 260.200, 323.060, 393.847, 414.032, 640.100, 643.220, 644.016, 644.036, 644.051 and 644.052, RSMo, are repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 142.028, 204.472, 247.030, 247.031, 247.040, 247.217, 247.220, 260.200, 278.258, 323.060, 393.847, 414.032, 414.043, 414.365, 640.100, 640.825, 643.220, 644.016, 644.036, 644.051, 644.052, 644.578, 644.579, 644.580 and 1, to read as follows:

142.028. DEFINITIONS — FUEL ETHANOL PRODUCER DEFINED — MISSOURI QUALIFIED PRODUCER INCENTIVE FUND CREATED, PURPOSE — ADMINISTRATION OF FUND — GRANTS TO PRODUCERS, AMOUNT, COMPUTATION, PAID WHEN — APPLICATION FOR GRANT, CONTENT, QUALIFICATIONS, BONDING — RULES AUTHORIZED. — 1. As used in this section, the following terms mean:

(1) "Fuel ethanol", one hundred ninety-eight proof ethanol denatured in conformity with the United States Bureau of Alcohol, Tobacco and Firearms' regulations and fermented and distilled

in a facility whose principal (over fifty percent) feed stock is cereal grain or cereal grain by-products;

(2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten percent fuel ethanol in which the gasoline portion of the blend or the finished blend meets the American Society for Testing and Materials - specification number D-439;

(3) "Missouri qualified fuel ethanol producer", any producer of fuel ethanol whose principal place of business and facility for the fermentation and distillation of fuel ethanol is located within the state of Missouri **and is at least fifty-one percent owned by agricultural producers actively engaged in agricultural production for commercial purposes**, and which has made formal application, posted a bond, and conformed to the requirements of this section.

2. The "Missouri Qualified Fuel Ethanol Producer Incentive Fund" is hereby created and subject to appropriations shall be used to provide economic subsidies to Missouri qualified fuel ethanol producers pursuant to this section. The director of the department of agriculture shall administer the fund pursuant to this section.

3. A Missouri qualified fuel ethanol producer shall be eligible for a monthly grant from the fund, except that a Missouri qualified fuel ethanol producer shall only be eligible for the grant for a total of sixty months **unless such producer during those sixty months failed, due to a lack of appropriations, to receive the full amount from the fund for which they were eligible, in which case such producers shall continue to be eligible for up to twenty-four additional months or until they have received the maximum amount of funding for which they were eligible during the original sixty month time period.** The amount of the grant is determined by calculating the estimated gallons of qualified fuel ethanol production to be produced from Missouri agricultural products for the succeeding calendar month, as certified by the department of agriculture, and applying such figure to the per-gallon incentive credit established in this subsection. Each Missouri qualified fuel ethanol producer shall be eligible for a total grant in any [calendar] fiscal year equal to twenty cents per gallon for the first twelve and one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products in the [calendar] fiscal year plus five cents per gallon for the next twelve and one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products in the [calendar] fiscal year. All such qualified fuel ethanol produced by a Missouri qualified fuel ethanol producer in excess of twenty-five million gallons shall not be applied to the computation of a grant pursuant to this subsection. The department of agriculture shall pay all grants for a particular month by the fifteenth day after receipt and approval of the application described in subsection 4 of this section. If actual production of qualified fuel ethanol during a particular month either exceeds or is less than that estimated by a Missouri qualified fuel ethanol producer, the department of agriculture shall adjust the subsequent monthly grant by paying additional amount or subtracting the amount in deficiency by using the calculation described in this subsection.

4. In order for a Missouri qualified fuel ethanol producer to obtain a grant from the fund for a particular month, an application for such funds shall be received no later than fifteen days prior to the first day of the month for which the grant is sought. The application shall include:

(1) The location of the Missouri qualified fuel ethanol producer;

(2) The average number of citizens of Missouri employed by the Missouri qualified fuel ethanol producer in the preceding quarter, if applicable;

(3) The number of bushels of Missouri agricultural commodities used by the Missouri qualified fuel ethanol producer in the production of fuel ethanol in the preceding quarter;

(4) The number of gallons of qualified fuel ethanol the producer expects to manufacture during the month for which the grant is applied;

(5) A copy of the qualified fuel ethanol producer license required pursuant to subsection 5 of this section, name and address of surety company, and amount of bond to be posted pursuant to subsection 5 of this section; and

(6) Any other information deemed necessary by the department of agriculture to adequately ensure that such grants shall be made only to Missouri qualified fuel ethanol producers.

5. The director of the department of agriculture, in consultation with the department of revenue, shall promulgate rules and regulations necessary for the administration of the provisions of this section. The director shall also establish procedures for bonding Missouri qualified fuel ethanol producers. Each Missouri qualified fuel ethanol producer who attempts to obtain moneys pursuant to this section shall be bonded in an amount not to exceed the estimated maximum monthly grant to be issued to such Missouri qualified fuel ethanol producer.

6. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

204.472. SEWER SERVICE TO BE PROVIDED BY AGREEMENT FOR CERTAIN ANNEXED AREAS, PROCEDURE (POPLAR BLUFF, BUTLER COUNTY) — 1. Whenever all or any part of a territory located within a sewer district that is located in any county of the third classification without a township form of government and with more than forty thousand eight hundred but less than forty thousand nine hundred inhabitants is included by annexation within the corporate limits of any city of the third classification with more than sixteen thousand six hundred but less than sixteen thousand seven hundred inhabitants, but is not receiving sewer service from such district or city at the time of such annexation, the city and the board of trustees of the district may, within six months after such annexation becomes effective, develop an agreement to provide sewer service to the annexed territory. Such an agreement may also be developed for territory that was annexed between January 1, 1996, and August 28, 2002, but was not receiving sewer service from such district or such city on August 28, 2002. For the purposes of this section, "not receiving sewer service" shall mean that no sewer services are being sold within the annexed territory by such district or city. If the city and the board reach an agreement that detaches any territory from such district, the agreement shall be submitted to the circuit court having jurisdiction over the major portion, and the circuit court shall make an order and judgment detaching the territory described in the agreement from the remainder of the district and stating the boundary lines of the district after such detachment. At such time that the circuit court's order and judgment becomes final, the clerk of the circuit court shall file certified copies of such order and judgment with the secretary of state and with the recorder of deeds and the county clerk of the county or counties in which the district is located. If an agreement is developed between a city and a sewer district pursuant to this subsection, subsections 2 to 8 of this section shall not apply to such agreement.

2. In the event that the board of trustees of such district and the city cannot reach such an agreement, an application may be made by the board or the city to the circuit court requesting that three commissioners develop such an agreement. Such application shall include the name of one commissioner appointed by the applying party. The second party shall appoint one commissioner within thirty days of the service of the application upon the second party. If the second party fails to appoint a commissioner within such time period, the circuit court shall appoint a commissioner on behalf of the second party. Such two named commissioners may agree to appoint a third disinterested commissioner within thirty days after the appointment of the second commissioner. In the event that the two named commissioners cannot agree on or fail to appoint the third disinterested commissioner within thirty days after the appointment of the second commissioner, the circuit court shall appoint the third disinterested commissioner.

3. Upon the filing of such application and the appointment of three such commissioners, the circuit court shall set a time for one or more hearings and shall order a public notice including the nature of the application, the annexed area affected, the names of the commissioners, and the time and place of such hearings, to be published for

three weeks consecutively in a newspaper published in the county in which the application is pending, the last publication to be not more than seven days before the date set for the first hearing.

4. The commissioners shall develop an agreement between the district and the city to provide sewer service to the annexed territory. In developing the agreement, the commissioners shall consider information presented to them at hearings and any other information at their disposal including, but not limited to:

- (1) The estimated future loss of revenue and costs for the sewer district related to the agreement;
- (2) The amount of indebtedness of the sewer district within the annexed territory;
- (3) Any contractual obligations of the sewer district within the annexed area; and
- (4) The effect of the agreement on the sewer rates of the district.

The agreement shall also include a recommendation for the apportionment of costs incurred pursuant to subsections 2 to 8 of this section, including reasonable compensation for the commissioners, between the city and the district.

5. If the circuit court finds that the agreement provides for necessary sewer service in the annexed territory, then such agreement shall be fully effective upon approval by the circuit court. The circuit court shall also review the recommended apportionment of court costs incurred and the reasonable compensation for the commissioners and affirm or modify such recommendations.

6. The order and judgment of the circuit court shall be subject to appeal as provided by law.

7. If the circuit court approves a detachment as part of the territorial agreement, it shall make its order and judgment detaching the territory described in the application from the remainder of the district and stating the boundary lines of the district after such detachment.

8. At such time that the circuit court's order and judgment becomes final, the clerk of the circuit court shall file certified copies of such order and judgment with the secretary of state and with the recorder of deeds and the county clerk of the county or counties in which the district is located.

9. The proportion of the sum of all outstanding bonds and debt, with interest thereon, that is required to be paid to the sewer district pursuant to this section, shall be the same as the proportion of the assessed valuation of the real and tangible personal property within the area sought to be detached bears to the assessed valuation of all of the real and tangible personal property within the entire area of the sewer district.

247.030. TERRITORY INCLUDED IN DISTRICT, CONTIGUOUS — BOUNDARIES OF DISTRICTS, HOW CHANGED — EXTENSION OR ENLARGEMENT OF DISTRICT, HOW. — 1. Territory that may be included in a district sought to be incorporated or enlarged may be wholly within one or in more than one county, may take in school districts or parts thereof, and cities that do not have a waterworks system or cities whose governing body has by a majority vote requested that the city or part thereof be included within the boundaries of a public water supply district. For the purpose of this section, "city" means any city, town or village. The territory, however, shall be contiguous, and proceedings to incorporate shall be in the circuit court of the county in which the largest acreage is located. No two districts shall overlap.

2. Any two or more contiguous districts or any city and a contiguous district may, if there are no outstanding general obligation bonds relating to drinking water supply projects in either entity, by a majority vote of the governing body of each entity, provide for territory located in one entity to be annexed and served by the entity contiguous to the annexed territory. Notice of the proposed annexation shall be filed with the circuit court that originally issued the decree of incorporation for a district which is detaching territory through the proposed annexation or with the circuit court that originally issued the decree of incorporation for a district which is including

a city or part thereof through the proposed annexation. The court shall set a date for a hearing on the proposed annexation and shall cause notice to be published in the same manner as for the filing of the original petition for incorporation; except that publication of notice shall not be required if a majority of the landowners in the territory proposed to be annexed consent in writing, and if notice of the hearing is posted in three public places within the territory proposed to be annexed at least seven days before the date of the hearing. If publication of the notice is not required pursuant to this section, the court shall only approve the proposed annexation if there is sworn testimony by at least five landowners in the area of the proposed annexation, or a majority of the landowners, if there are fewer than ten landowners in the area. If the court, after the hearing, finds that the proposed annexation would not be in the public interest, it shall order that the annexation not be allowed. If the court finds the proposed annexation to be in the public interest, it shall approve the annexation and the territory shall be detached from the one entity and annexed to the other. After the annexation is approved, the circuit court in which each district involved in the proceedings was incorporated shall amend the decree of incorporation for each district to reflect the change in the boundaries as a result of the annexation and [to] redivide each district into five subdistricts, fixing their boundary lines so that each of the five subdistricts have approximately the same area. A certified copy of the amended decree showing the boundary change and the new subdistricts shall be filed in the office of the recorder of deeds and in the office of the county clerk in each county having territory in the district and in the office of the secretary of state of the state of Missouri.

3. The boundaries of any district may be extended or enlarged from time to time upon the filing, with the clerk of the circuit court having jurisdiction, of a petition by either:

(1) The board of directors of the district and five or more voters **or landowners** within the territory proposed to be annexed by the district; or

(2) **The board of directors of the district and** a majority of the landowners within the territory proposed to be annexed to the district.

If the petition is filed by the board of directors of the district and five or more voters or landowners within the territory proposed to be annexed by the district, the same proceedings shall be followed as are provided in section 247.040 for the filing of a petition for the organization of the district, except that no election shall be held. Upon entry of a final order declaring the court's decree of annexation to be final and conclusive, the court shall modify or rearrange the boundary lines of the subdistricts as may be necessary or advisable. If the petition is filed by **the board of directors of the district and** a majority of the landowners within the territory proposed to be annexed, the publication of notice shall not be required, provided notice is posted in three public places within the territory proposed to be annexed at least seven days before the date of the hearing and provided that there is sworn testimony by at least five landowners in the territory proposed to be annexed, or a majority of the landowners if the total landowners in the area are fewer than ten. **If the court finds that the annexation of such territory would be in the public interest, the court shall enter its order granting such annexation.** Upon the entry of [a final] **such** order [declaring the court's decree of annexation to be final and conclusive], the court shall modify or rearrange the boundary lines of the subdistricts as may be necessary or advisable. The costs incurred in the enlargement or extension of the district shall be taxed to the district, if the district be enlarged or extended, otherwise against the petitioners; provided, however, that no costs shall be taxed to the directors of the district.

4. Should any [voter] **landowner** who owns real estate that abuts upon a district once formed desire to have such real estate incorporated in the district, the [voter] **landowner** shall first petition the board of directors thereof for its approval. If such approval be granted, the clerk of the board shall endorse a certificate of the fact of approval by the board upon the petition. The petition so endorsed shall be filed with the clerk of the circuit court in which the district is incorporated. It shall then be the duty of the court to amend the boundaries of such district by a decree incorporating the real estate in the same. A certified copy of this decree including the

real estate in the district shall then be filed in the office of the recorder and in the office of the county clerk of the county in which the real estate is located, and in the office of the secretary of state. The costs of this proceeding shall be borne by the petitioning property owner.

247.031. DETACHMENT FROM DISTRICT, WHEN — PROCEDURE — COSTS — PETITION FORM. — 1. Territory included in a district that is not being served by such district may be detached from such district provided that there are no outstanding general obligation or special obligation bonds and no contractual obligations of greater than twenty-five thousand dollars for debt that pertains to infrastructure, fixed assets or obligations for the purchase of water. If any such bonds or debt is outstanding, and the written consent of the holders of such bonds or the creditors to such debt is obtained, then such territory may be detached in spite of the existence of such bonds or debt, except such consent shall not be required for special obligation bonds if the district has no water lines or other facilities located within any of the territory detached. Detachment may be made by the filing of a petition with the circuit court in which the district was incorporated. The petition shall contain a description of the tract to be detached and a statement that the detachment is in the best interest of the district or the inhabitants and property owners of the territory to be detached, together with the facts supporting such allegation. The petition may be submitted by the district acting through its board of directors, in which case the petition shall be signed by a majority of the board of directors of the district. The petition may also be submitted by voters residing in **or by landowners owning land in** the territory sought to be detached. If there are more than ten voters **and landowners** in such territory, the petition shall be signed by five or more voters [residing in] **or landowners within** the territory; if there are less than ten voters [residing in] **and landowners within** such territory, the petition shall be signed by fifty percent or more of the voters [residing in] **and landowners within** the territory. In the event there are no voters living within such territory proposed to be detached, then the petition may be submitted by owners of more than fifty percent of the land in the territory proposed to be detached, in which case said petition shall be signed by the owners so submitting the petition.

2. Such petition shall be filed in the circuit court having jurisdiction and the court shall set a date for hearing on the proposed detachment and the clerk shall give notice thereof in three consecutive issues of a weekly newspaper in each county in which any portion of the territory proposed to be detached lies, or in lieu thereof, in twenty consecutive issues of a daily newspaper in each county in which any portion of the tract proposed to be detached lies; the last insertion of the notice to be made not less than seven nor more than twenty-one days before the hearing. Such notice shall be substantially as follows: IN THE CIRCUIT COURT OF COUNTY, MISSOURI NOTICE OF THE FILING OF A PETITION FOR TERRITORIAL DETACHMENT FROM PUBLIC WATER SUPPLY DISTRICT NO. OF COUNTY, MISSOURI.

To all voters and landowners of land within the boundaries of the above-described district:
You are hereby notified:

1. That a petition has been filed in this court for the detachment of the following tracts of land from the above-named public water supply district, as provided by law: (Describe tracts of land).

2. That a hearing on said petition will be held before this court on the day of, 20, at,m.

3. Exceptions or objections to the detachment of said tracts from said public water supply district may be made by any voter or landowner of land within the district from which territory is sought to be detached, provided such exceptions or objections are in writing not less than five days prior to the date set for hearing on the petition.

4. The names and addresses of the attorneys for the petitioner are:

.....
Clerk of the Circuit Court of

..... County, Missouri

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions or objections to the detachment of such territory may be made by any voter or landowner within the boundaries of the district, including the territory to be detached. The exceptions or objections shall be in writing and shall specify the grounds upon which they are made and shall be filed not later than five days before the date set for hearing the petition. If any such exceptions or objections are filed, the court shall take them into consideration when considering the petition for detachment and the evidence in support of detachment. If the court finds that the detachment will be in the best interest of the district and the inhabitants and landowners of the area to be detached will not be adversely affected or if the court finds that the detachment will be in the best interest of the inhabitants and landowners of the territory to be detached and will not adversely affect the remainder of the district, it shall approve the detachment and grant the petition.

5. If the court approves the detachment, it shall make its order detaching the territory described in the petition from the remainder of the district, or in the event it shall find that only a portion of said territory should be detached, the court shall order such portion detached from the district. The court shall also make any changes in subdistrict boundary lines it deems necessary to meet the requirements of sections 247.010 to 247.220. Any subdistrict line changes shall not become effective until the next annual election of a member of the board of directors.

6. A certified copy of the court's order shall be filed in the office of the recorder and in the office of the county clerk in each county in which any of the territory of the district prior to detachment is located, and in the office of the secretary of state. Costs of the proceeding shall be borne by the petitioner or petitioners.

247.040. FORMATION OF PUBLIC WATER SUPPLY DISTRICT — PROCEDURE. — 1. Proceedings for the formation of a public water supply district shall be substantially as follows: a petition in duplicate describing the proposed boundaries of the district sought to be formed, accompanied by a plat of the proposed district, shall be filed with the clerk of the circuit court of the county wherein the proposed district is situate, or with the clerk of the circuit court of the county having the largest acreage proposed to be included in the proposed district, in the event that the proposed district embraces lands in more than one county. Such petition, in addition to such boundary description, shall set forth an estimate of the number of customers of the proposed district, the necessity for the formation of the district, the probable cost of the improvement, an approximation of the assessed valuation of taxable property within the district and such other information as may be useful to the court in determining whether or not the petition should be granted and a decree of incorporation entered. Such petition shall be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding, and the petition shall be signed by not less than fifty voters **or owners of real property** within the proposed district and shall pray for the incorporation of the territory therein described into a public water supply district. The petition shall be verified by at least one of the signers thereof.

2. Upon the filing of the petition, the same shall be presented to the circuit court, and such court shall fix a date for a hearing on such petition, as herein provided for. Thereupon the clerk of the court shall give notice of the filing of the petition in some newspaper of general circulation in the county in which the proceedings are pending, and if the district extends into any other county or counties, such notice shall also be published in some newspaper of general circulation in such other county or counties. The notice shall contain a description of the proposed boundary lines of the district and the general purposes of the petition, and shall set forth the date fixed for the hearing on the petition, which shall not be less than [fifteen] **seven** nor more than twenty-one days after the date of the last publication of the notice and shall be on some regular judicial day of the court wherein the petition is pending. Such notice shall be signed by the clerk

of the circuit court and shall be published in three successive issues of a weekly newspaper or in [twenty successive issues] of a daily newspaper **once a week for three consecutive weeks.**

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions to the formation of a district, or to the boundaries outlined in the petition for the incorporation thereof, may be made by any voter **or owner of real property in** the proposed district; provided, such exceptions are filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are being made. If any such exceptions be filed, the court shall take them into consideration in passing upon the petition and shall also consider the evidence in support of the petition and in support of the exceptions made. Should the court find that the petition should be granted but that changes should be made in the boundary lines, it shall make such changes in the boundary lines as set forth in the petition as to the court may seem meet and proper, and thereupon enter its decree of incorporation, with such boundaries as changed.

5. Should the court find that it would not be to the public interest to form such a district, the petition shall be dismissed at the costs of the petitioners. If, however, the court should find in favor of the formation of such district, the court shall enter its decree of incorporation, setting forth the boundaries of the proposed district as determined by the court pursuant to the aforesaid hearing. The decree of incorporation shall also divide the district into five subdistricts and shall fix their boundary lines, all of which subdistricts shall have approximately the same area and shall be numbered. The decree shall further contain an appointment of one voter from each of such subdistricts, to constitute the first board of directors of the district. No two members of such board so appointed or hereafter elected or appointed shall reside in the same subdistrict, except as provided in section 247.060. If no qualified person who lives in the subdistrict is willing to serve on the board, the court may appoint, or the voters may elect, an otherwise qualified person who lives in the district but not in the subdistrict. The court shall designate two of such directors so appointed to serve for a term of two years and one to serve for a term of one year. And the directors thus appointed by the court shall serve for the terms thus designated and until their successors shall have been appointed or elected as herein provided. The decree shall further designate the name and number of the district by which it shall hereafter be officially known.

6. The decree of incorporation shall not become final and conclusive until it shall have been submitted to the voters residing within the boundaries described in such decree and until it shall have been assented to by a majority of the voters as provided in subsection 9 of this section or by two-thirds of the voters of the district voting on the proposition. The decree shall provide for the submission of the question and shall fix the date thereof. The returns shall be certified by the judges and clerks of election to the circuit court having jurisdiction in the case and the court shall thereupon enter its order canvassing the returns and declaring the result of such election.

7. If, upon canvass and declaration, it is found and determined that the question shall have been assented to by a majority of two-thirds of the voters of the district voting on such proposition, then the court shall, in such order declaring the result of the election, enter a further order declaring the decree of incorporation to be final and conclusive. In the event, however, that the court should find that the question had not been assented to by the majority above required, the court shall enter a further order declaring such decree of incorporation to be void and of no effect. No appeal shall lie from any such decree of incorporation nor from any of the aforesaid orders. In the event that the court declares the decree of incorporation to be final, as herein provided for, the clerk of the circuit court shall file certified copies of such decree of incorporation and of such final order with the secretary of state of the state of Missouri, and with the recorder of deeds of the county or counties in which the district is situate and with the clerk of the county commission of the county or counties in which the district is situate.

8. The costs incurred in the formation of the district shall be taxed to the district, if the district be incorporated otherwise against the petitioners.

9. If petitioners seeking formation of a public water supply district specify in their petition that the district to be organized shall be organized without authority to issue general obligation bonds, then the decrees relating to the formation of the district shall recite that the district shall not have authority to issue general obligation bonds and the vote required for such a decree of incorporation to become final and conclusive shall be a simple majority of the voters of the district voting on such proposition.

247.217. CONSOLIDATION, PROCEDURE, PETITION, NOTICE — SUBDISTRICTS, HOW FORMED — ELECTION — DIRECTORS, TERMS, ELIGIBILITY — PROPERTY, HOW HANDLED.

— 1. Any two or more contiguous public water supply districts organized under the provisions of sections 247.010 to 247.220 may be consolidated into a single district by a decree of the circuit court in which the district with the largest acreage was originally incorporated and organized.

2. Proceedings for consolidation of such districts shall be substantially as follows: The board of directors of each of the districts to be consolidated shall authorize, by resolution passed at a regular meeting or a special meeting called for such purpose, its president, on behalf of the district, to petition the circuit court having jurisdiction for consolidation with any one or more other contiguous public water supply districts.

3. Such petition shall be filed in the circuit court having jurisdiction and the court shall set a date for a hearing thereon and the clerk shall give notice thereof in some newspaper of general circulation in each county in which each of the districts proposed to be consolidated is located.

4. Such notice shall be substantially as follows:

IN THE CIRCUIT COURT OF
COUNTY, MISSOURI
NOTICE OF THE FILING OF A PETITION FOR
CONSOLIDATION OF PUBLIC WATER SUPPLY
DISTRICT NO., OF COUNTY,
MISSOURI, AND PUBLIC WATER SUPPLY DISTRICT
NO., OF COUNTY, MISSOURI
(Additional districts may be named as required.)

To all voters, **landowners, and interested persons** within the boundaries of the above-described public water supply districts:

You are hereby notified:

1. That a petition has been filed in this court for the consolidation of the above-named public water supply districts into one public water supply district, as provided by law.

2. That a hearing on said petition will be held before this court on the..... day of....., [19]20...., at....,m.

3. Exceptions or objections to the consolidation of said districts may be made by any voters **or landowners** of any of such districts proposed to be consolidated, provided such exceptions or objections are filed in writing not less than five days prior to the date set for the hearing on the petition.

4. The names and addresses of the attorneys for the petitioner are:

.....
Clerk of the Circuit Court of
..... County, Missouri

5. The notice shall be published in three consecutive issues of a weekly newspaper in each county in which any portion of any district proposed to be consolidated lies, or in lieu thereof, in twenty consecutive issues of a daily newspaper in each county in which any portion of any district proposed to be consolidated lies; the last insertion of such notice to be made not less than seven nor more than twenty-one days before the hearing.

6. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

7. Exceptions or objections to the consolidation of such districts may be made by any voter **or landowner** within the boundaries of the proposed district. The exceptions or objections shall be in writing and shall specify the grounds upon which the same are made and shall be filed not later than five days before the date set for hearing the petition. If any such exceptions or objections are filed, the court shall take them into consideration in passing upon the petition for consolidation and shall also consider the evidence in support of the petition. If the court finds that the consolidation will provide for the rendering of necessary water service in the districts, and is in the best interest of the voters **and the landowners** of the district, it shall, by its decree, approve such consolidation. The decree of consolidation shall set an effective date for the consolidation of the districts and shall provide that the proposed consolidated district shall be divided into five subdistricts and shall fix boundary lines of each subdistrict, all of which subdistricts shall have approximately the same area and shall be numbered.

8. The decree of consolidation shall not become final and conclusive until it has been submitted to voters in each of the districts proposed to be included in the consolidated district.

9. If, upon canvass and declaration of the results, it is found and determined that the question has been assented to by a majority of the voters of each district voting on the question, the court shall issue its order declaring the results of the elections, declaring its previous decree of consolidation to be final and conclusive, and in addition, the decree shall provide for an election of a director from each of the subdistricts set forth in the decree of the court as specified in subsection 7 of this section. The terms of office for the directors elected at such election shall be as follows: The director elected from the subdistrict designated by the circuit court as number one shall serve until the next regular election, or until his successor has been elected and qualified; those directors elected from the subdistricts designated by the circuit court as numbers two and three shall serve until the regular election following the next regular election or until their successors have been elected and qualified; those directors elected from the subdistricts designated by the circuit court as numbers four and five shall serve until the annual regular election following the next two regular elections, or until their successors have been elected and qualified. Thereafter all directors shall be elected as provided by sections 247.010 to 247.220. The election shall be held at least thirty days before the effective date of the consolidation. The returns shall be certified by the judges and clerks of election to the circuit court having jurisdiction and the court shall thereupon enter its order naming the directors from each subdistrict.

10. The eligibility and requirements for a director for a consolidated district shall be identical with those set forth in section 247.060 and no two members of the board shall reside in the same subdistrict. Any candidate shall have his name imprinted upon the ballot, provided he shall file a declaration of intention to become such a candidate with the clerk of the circuit court.

11. In its final decree, the court shall designate a name for the consolidated district which shall be as follows: Consolidated Public Water Supply District No., of..... County, Missouri.

12. On the effective date of the consolidation of the districts, the newly elected directors shall organize in the same manner as is provided in sections 247.010 to 247.220, and all of such provisions shall apply to consolidated public water supply districts in the same manner as to other public water supply districts.

13. At the time of the effective date of the consolidation, all the property of the original districts shall be combined and administered as one unit, which shall be subject to the liens, liabilities and obligations of the original districts, provided that if any district included in the consolidated district has issued general obligation bonds which are outstanding at the time of the consolidation, any taxes to be levied to pay the bonds and interest thereon shall be levied only upon the property within the original district issuing the bonds as it existed on the date of such issuance. All special obligation or revenue bonds issued by any district included in the consolidated district shall be paid in accordance with the terms thereof, without preference, from the revenue received by the consolidated district.

14. A certified copy of the decrees of the court shall be filed in the office of the recorder and in the office of the county clerk in each county in which any part of the consolidated district is located, and in the office of the secretary of state. Such copies shall be filed by the clerk of the circuit court and the filing fees shall be taxed as costs.

247.220. DISSOLUTION OF DISTRICT — PROCEDURE — ELECTION — DISPOSITION OF PROPERTY AND DEBTS. — 1. Proceedings for the dissolution of a public water supply district shall be substantially the same as proceedings for the formation of such a district, as follows: A petition describing the boundaries of the district sought to be dissolved shall be filed with the clerk of the circuit court of the county wherein the subject district is situate, or with the clerk of the circuit court of the county having the largest acreage within the boundaries of the subject district, in the event that the subject district embraces lands in more than one county. Such petition, in addition to such boundary description, shall allege that further operation of the subject district is inimicable to the best interests of the inhabitants of the district, that the district should, in the interest of the public welfare and safety, be dissolved, that an alternative water supplier is available and better able to supply water to the inhabitants of the district, and such other information as may be useful to the court in determining whether [or not] the petition should be granted and a decree of dissolution entered. Such petition shall **also include a detailed plan for payment of all debt and obligations of the district at the time of dissolution. Such petition shall** be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding and the petition shall be signed by not less than one-fifth of the registered voters from each subdistrict, or fifty registered voters from each subdistrict, whichever is less, within the subject district. The petition shall be verified by at least one of the signers thereof **and shall be served upon the board of directors of the district as provided by law. The district shall be a party, and if the board of directors in its discretion determines that such dissolution is not in the public interest, the district shall oppose such petition and pay all cost and expense thereof.**

2. Upon the filing of the petition, the same shall be presented to the circuit court, and such court shall fix a date for a hearing on such petition, as provided in this section. Thereupon, the clerk of the court shall give notice of the filing of the petition in some newspaper of general circulation in the county in which the proceedings are pending, and if the district extends into any other county or counties, such notice shall also be published in some newspaper of general circulation in such other county or counties. The notice shall contain a description of the subject boundary lines of the district and the general purposes of the petition, and shall set forth the date fixed for the hearing on the petition, which shall not be less than [fifteen] **seven** nor more than twenty-one days after the date of the last publication of the notice and shall be on some regular judicial day of the court wherein the petition is pending. Such notice shall be signed by the clerk of the circuit court and shall be published in three successive issues of a weekly newspaper or in twenty successive issues of a daily newspaper.

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions to the dissolution of a district may be made by any voter **or landowner** of the [subject] district[;], **and by the district as herein provided[;]**; such exceptions [are] **shall be** filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are filed and the court shall take them into consideration in passing upon the petition and shall also consider the evidence in support of the petition and in support of the exceptions made. **Unless petitioners prove that all debts and financial obligations of the district can be paid in full upon dissolution, the petition shall be dismissed at the cost of the petitioners.**

5. Should the court find that it would not be to the public interest to dissolve a district, the petition shall be dismissed at the costs of the petitioners. If, however, the court should find in favor of the petitioners, the court shall enter its interlocutory decree of dissolution which decree

shall provide for the submission of the question to the voters of the district in substantially the following form:

Shall Public Water Supply District be dissolved?

6. The decree of dissolution shall not become final and conclusive until it shall have been submitted to the voters residing within the boundaries described in such decree and until it shall have been assented to by a majority of [four-sevenths] **two-thirds** of the voters of the district voting on the proposition. The decree shall provide for the submission of the question and shall fix the date thereof. The returns shall be certified by the election authority to the circuit court having jurisdiction in the case and the court shall thereupon enter its order canvassing the returns and declaring the result of such election.

7. If, upon canvass and declaration, it is found and determined that the question shall have been assented to by a majority of [four-sevenths] **two-thirds** of the voters of the district voting on such proposition then the court shall, in such order declaring the result of the election, enter a further order declaring the decree of dissolution to be final and conclusive. In the event, however, that the court should find that the question had not been assented to by the majority required, the court shall enter a further order declaring such decree of dissolution to be void and of no effect. No appeal shall lie from any of the aforesaid orders. In the event that the court declares the decree of dissolution to be final, as provided in this section, the clerk of the circuit court shall file certified copies of such decree of dissolution and of such final order with the secretary of state of the state of Missouri, and with the recorder of deeds of the county or counties in which the district is situate and with the clerk of the county commission of the county or counties in which the district is situate.

8. Notwithstanding anything in this section to the contrary, no district shall be dissolved until after all of its debts shall have been paid, and the court, in its decree of dissolution, shall provide for the disposition of the property of the district.

260.200. DEFINITIONS. — The following words and phrases when used in sections 260.200 to 260.345 shall mean:

(1) "Alkaline-manganese battery" or "alkaline battery", a battery having a manganese dioxide positive electrode, a zinc negative electrode, an alkaline electrolyte, including alkaline-manganese button cell batteries intended for use in watches, calculators, and other electronic products, and larger-sized alkaline-manganese batteries in general household use;

(2) "Button cell battery" or "button cell", any small alkaline-manganese or mercuric-oxide battery having the size and shape of a button;

(3) "City", any incorporated city, town, or village;

(4) "Clean fill", uncontaminated soil, rock, sand, gravel, concrete, asphaltic concrete, cinderblocks, brick, minimal amounts of wood and metal, and inert solids as approved by rule or policy of the department for fill, reclamation or other beneficial use;

(5) "Closure", the permanent cessation of active disposal operations, abandonment of the disposal area, revocation of the permit or filling with waste of all areas and volumes specified in the permit and preparing the area for long-term care;

(6) "Closure plan", plans, designs and relevant data which specify the methods and schedule by which the operator will complete or cease disposal operations, prepare the area for long-term care, and make the area suitable for other uses, to achieve the purposes of sections 260.200 to 260.345 and the regulations promulgated thereunder;

(7) "Conference, conciliation and persuasion", a process of verbal or written communications consisting of meetings, reports, correspondence or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at a minimum, consist of one offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

(8) "Demolition landfill", a solid waste disposal area used for the controlled disposal of demolition wastes, construction materials, brush, wood wastes, soil, rock, concrete and inert solids insoluble in water;

(9) "Department", the department of natural resources;

(10) "Director", the director of the department of natural resources;

(11) "District", a solid waste management district established under section 260.305;

(12) "Financial assurance instrument", an instrument or instruments, including, but not limited to, cash or surety bond, letters of credit, corporate guarantee or secured trust fund, submitted by the applicant to ensure proper closure and postclosure care and corrective action of a solid waste disposal area in the event that the operator fails to correctly perform closure and postclosure care and corrective action requirements, except that the financial test for the corporate guarantee shall not exceed one and one-half times the estimated cost of closure and postclosure. The form and content of the financial assurance instrument shall meet or exceed the requirements of the department. The instrument shall be reviewed and approved or disapproved by the attorney general;

(13) "Flood area", any area inundated by the one hundred year flood event, or the flood event with a one percent chance of occurring in any given year;

(14) "Household consumer", an individual who generates used motor oil through the maintenance of the individual's personal motor vehicle, vessel, airplane, or other machinery powered by an internal combustion engine;

(15) "Household consumer used motor oil collection center", any site or facility that accepts or aggregates and stores used motor oil collected only from household consumers or farmers who generate an average of twenty-five gallons per month or less of used motor oil in a calendar year. This section shall not preclude a commercial generator from operating a household consumer used motor oil collection center;

(16) "Household consumer used motor oil collection system", any used motor oil collection center at publicly owned facilities or private locations, any curbside collection of household consumer used motor oil, or any other household consumer used motor oil collection program determined by the department to further the purposes of sections 260.200 to 260.345;

(17) "Infectious waste", waste in quantities and characteristics as determined by the department by rule, including isolation wastes, cultures and stocks of etiologic agents, blood and blood products, pathological wastes, other wastes from surgery and autopsy, contaminated laboratory wastes, sharps, dialysis unit wastes, discarded biologicals known or suspected to be infectious; provided, however, that infectious waste does not mean waste treated to department specifications;

(18) "Lead-acid battery", a battery designed to contain lead and sulfuric acid with a nominal voltage of at least six volts and of the type intended for use in motor vehicles and watercraft;

(19) "Major appliance", clothes washers and dryers, water heaters, trash compactors, dishwashers, [microwave ovens,] conventional ovens, ranges, stoves, woodstoves, air conditioners, refrigerators and freezers;

(20) "Mercuric-oxide battery" or "mercury battery", a battery having a mercuric-oxide positive electrode, a zinc negative electrode, and an alkaline electrolyte, including mercuric-oxide button cell batteries generally intended for use in hearing aids and larger size mercuric-oxide batteries used primarily in medical equipment;

(21) "Minor violation", a violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor;

(22) "Motor oil", any oil intended for use in a motor vehicle, as defined in section 301.010, RSMo, train, vessel, airplane, heavy equipment, or other machinery powered by an internal combustion engine;

(23) "Motor vehicle", as defined in section 301.010, RSMo;

(24) "Operator" and "permittee", anyone so designated, and shall include cities, counties, other political subdivisions, authority, state agency or institution, or federal agency or institution;

(25) "Permit modification", any permit issued by the department which alters or modifies the provisions of an existing permit previously issued by the department;

(26) "Person", any individual, partnership, corporation, association, institution, city, county, other political subdivision, authority, state agency or institution, or federal agency or institution;

(27) "Postclosure plan", plans, designs and relevant data which specify the methods and schedule by which the operator shall perform necessary monitoring and care for the area after closure to achieve the purposes of sections 260.200 to 260.345 and the regulations promulgated thereunder;

(28) "Recovered materials", those materials which have been diverted or removed from the solid waste stream for sale, use, reuse or recycling, whether or not they require subsequent separation and processing;

(29) "Recycled content", the proportion of fiber in a newspaper which is derived from postconsumer waste;

(30) "Recycling", the separation and reuse of materials which might otherwise be disposed of as solid waste;

(31) "Resource recovery", a process by which recyclable and recoverable material is removed from the waste stream to the greatest extent possible, as determined by the department and pursuant to department standards, for reuse or remanufacture;

(32) "Resource recovery facility", a facility in which recyclable and recoverable material is removed from the waste stream to the greatest extent possible, as determined by the department and pursuant to department standards, for reuse or remanufacture;

(33) "Sanitary landfill", a solid waste disposal area which accepts commercial and residential solid waste;

(34) "Solid waste", garbage, refuse and other discarded materials including, but not limited to, solid and semisolid waste materials resulting from industrial, commercial, agricultural, governmental and domestic activities, but does not include hazardous waste as defined in sections 260.360 to 260.432, recovered materials, overburden, rock, tailings, matte, slag or other waste material resulting from mining, milling or smelting;

(35) "Solid waste disposal area", any area used for the disposal of solid waste from more than one residential premises, or one or more commercial, industrial, manufacturing, recreational, or governmental operations;

(36) "Solid waste fee", a fee imposed pursuant to sections 260.200 to 260.345 and may be:

(a) A solid waste collection fee imposed at the point of waste collection; or

(b) A solid waste disposal fee imposed at the disposal site;

(37) "Solid waste management area", a solid waste disposal area which also includes one or more of the functions contained in the definitions of recycling, resource recovery facility, waste tire collection center, waste tire processing facility, waste tire site or solid waste processing facility, excluding incineration;

(38) "Solid waste management system", the entire process of managing solid waste in a manner which minimizes the generation and subsequent disposal of solid waste, including waste reduction, source separation, collection, storage, transportation, recycling, resource recovery, volume minimization, processing, market development, and disposal of solid wastes;

(39) "Solid waste processing facility", any facility where solid wastes are salvaged and processed, including:

(a) A transfer station; or

(b) An incinerator which operates with or without energy recovery but excluding waste tire end-user facilities; or

(c) A material recovery facility which operates with or without composting;

(40) "Solid waste technician", an individual who has successfully completed training in the practical aspects of the design, operation and maintenance of a permitted solid waste processing facility or solid waste disposal area in accordance with sections 260.200 to 260.345;

(41) "Tire", a continuous solid or pneumatic rubber covering encircling the wheel of any self-propelled vehicle not operated exclusively upon tracks, or a trailer as defined in chapter 301, RSMo, except farm tractors and farm implements owned and operated by a family farm or family farm corporation as defined in section 350.010, RSMo;

(42) "Used motor oil", any motor oil which as a result of use, becomes unsuitable for its original purpose due to loss of original properties or the presence of impurities, but used motor oil shall not include ethylene glycol, oils used for solvent purposes, oil filters that have been drained of free flowing used oil, oily waste, oil recovered from oil tank cleaning operations, oil spilled to land or water, or industrial nonlube oils such as hydraulic oils, transmission oils, quenching oils, and transformer oils;

(43) "Utility waste landfill", a solid waste disposal area used for fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(44) "Waste tire", a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect;

(45) "Waste tire collection center", a site where waste tires are collected prior to being offered for recycling or processing and where fewer than five hundred tires are kept on site on any given day;

(46) "Waste tire end-user facility", a site where waste tires are used as a fuel or fuel supplement or converted into a useable product. Baled or compressed tires used in structures, or used at recreational facilities, or used for flood or erosion control shall be considered an end use;

(47) "Waste tire generator", a person who sells tires at retail or any other person, firm, corporation, or government entity that generates waste tires;

(48) "Waste tire processing facility", a site where tires are reduced in volume by shredding, cutting, chipping or otherwise altered to facilitate recycling, resource recovery or disposal;

(49) "Waste tire site", a site at which five hundred or more waste tires are accumulated, but not including a site owned or operated by a waste tire end-user that burns waste tires for the generation of energy or converts waste tires to a useful product;

(50) "Yard waste", leaves, grass clippings, yard and garden vegetation and Christmas trees. The term does not include stumps, roots or shrubs with intact root balls.

278.258. DETACHMENT FROM WATERSHED SUBDISTRICT, PROCEDURE — CERTIFICATION BY TRUSTEES. — 1. After a watershed subdistrict has been organized and the organization tax pursuant to section 278.250 has been levied, any county in the subdistrict which has not adopted the annual tax pursuant to section 278.250 may detach from the subdistrict upon approval of such detachment of a majority of the qualified voters residing within such subdistrict in such county; however, before such detachment the watershed district trustees shall make arrangements for the county to pay any outstanding indebtedness for services or works of improvement rendered by the subdistrict in such county.

2. Following the entry in the official minutes of the trustees of the watershed district of the detachment of the county, the watershed district trustees shall certify this fact on a separate form, authentic copies of which shall be recorded with the recorder of deeds in each county in which any portion of the watershed subdistrict lies and with the state soil and water districts commission.

323.060. RETAIL DISTRIBUTORS TO BE REGISTERED — STORAGE CAPACITY REQUIREMENT — NONRESIDENTS TO COMPLY — IMMUNITY FROM LIABILITY, WHEN —

PUBLIC UTILITIES, EXEMPTION. — 1. No person shall engage in this state in the business of selling at retail of liquefied petroleum gas, or in the business of handling or transportation of liquefied petroleum gas over the highways of this state or in the business of installing, **modifying, repairing,** or servicing equipment and appliances for use with liquefied petroleum gas without having first registered with the director of the department of agriculture. No person shall engage in this state in the business of selling at retail of liquefied petroleum gas unless such person maintains and operates one or more storage tanks located in the state of Missouri with a combined capacity of at least eighteen thousand gallons, except that such storage capacity requirements shall apply only to businesses engaged in bulk sales of liquefied petroleum.

2. Nonresidents of the state of Missouri desiring to engage in the business of distribution of liquefied petroleum gases at retail, or the business of installing, repairing or servicing equipment and appliances for use of liquefied petroleum gases shall comply with sections 323.010 to 323.110 and rules and regulations promulgated thereunder.

3. **No person registered pursuant to this section and engaged in this state in the business of selling at retail of liquefied petroleum gas, or in the business of handling or transportation of liquefied petroleum gas over the highways of this state shall be liable for actual or punitive civil damages for injury to persons or property that result from any occurrence caused by the installation, modification, repair, or servicing of equipment and appliances for use with liquefied petroleum gas by any other person unless such registered person had received written notification or had other actual knowledge of such installation, modification, repair, or servicing of equipment and appliances and failed to inspect such installation, modification, repair, or servicing of equipment and appliances within thirty days after receipt of such notice or actual knowledge.**

4. **Nothing in this section is intended to limit the liability of any person for any damages that arise directly from the gross negligence or willful or wanton acts of such person.**

5. All utility operations of public utility companies subject to the safety jurisdiction of the public service commission are exempt from the provisions of this section.

393.847. DEPARTMENT OF NATURAL RESOURCES, JURISDICTION, SUPERVISION, POWERS AND DUTIES — PUBLIC SERVICE COMMISSION JURISDICTION, LIMITATIONS. — 1. Every nonprofit sewer company constructing, maintaining and operating its wastewater lines and treatment facilities shall construct, maintain and operate such lines and facilities in conformity with the rules and regulations relating to the manner and methods of construction, maintenance and operation and as to safety of the public with other lines and facilities now or hereafter from time to time prescribed by the department of natural resources for the construction, maintenance and operation of such lines or systems. The jurisdiction, supervision, powers and duties of the department of natural resources shall extend to every such nonprofit sewer company [so far as it concerns the construction, maintenance and operation of the physical equipment of such company to the extent of providing for the safety of employees and the general public] **and every nonprofit sewer company shall be supervised and regulated by the department of natural resources to the same extent and in the same manner as any other nonprofit corporation engaged in whole or in part in the collection or treatment of wastewater.**

2. The public service commission shall not have jurisdiction over the construction, maintenance or operation of the wastewater facilities, service, rates, financing, accounting or management of any nonprofit sewer company.

414.032. REQUIREMENTS, STANDARDS, CERTAIN FUELS — DIRECTOR MAY INSPECT FUELS, PURPOSE. — 1. All kerosene, diesel fuel, heating oil, aviation turbine fuel, gasoline, gasoline-alcohol blends and other motor fuels shall meet the requirements in the annual book of ASTM standards and supplements thereto. The director may promulgate rules and regulations on the labeling, standards for, and identity of motor fuels and heating oils.

2. [All sellers of motor fuel which has been blended with an alcohol additive shall notify the buyer of same.

3. All sellers of motor fuel which has been blended with at least one percent oxygenate by weight shall notify the buyer at the pump of the type of oxygenate. The provisions of this subsection may be satisfied with a sticker or label on the pump stating that the motor fuel may or may not contain the oxygenate. The department of agriculture shall provide the sticker or label, which shall be reasonable in size and content, at no cost to the sellers.

4.] The director may inspect gasoline, gasoline-alcohol blends or other motor fuels to insure that these fuels conform to advertised grade and octane. In no event shall the penalty for a first violation of this section exceed a written reprimand.

414.043. MTBE CONTENT LIMIT FOR GASOLINE, WHEN. — After July 31, 2005, no gasoline sold, offered for sale, or stored within this state shall contain more than one-half of one percent by volume of methyl tertiary butyl ether (MTBE).

414.365. PROGRAM ESTABLISHED FOR BIODIESEL FUEL USE IN MoDOT VEHICLES, GOALS, RULES. — 1. As used in this section, the following terms mean:

(1) "B-20", a blend of twenty percent by volume biodiesel fuel and eighty percent by volume petroleum-based diesel fuel;

(2) "Biodiesel", fuel as defined in ASTM standard PS121;

(3) "Incremental cost", the difference in cost between blended biodiesel fuel and conventional petroleum-based diesel fuel at the time the blended biodiesel fuel is purchased.

2. On or before October 1, 2003, the Missouri department of transportation shall develop a program that provides for the opportunity to use fuel with at least the biodiesel content of B-20 in its vehicle fleet and heavy equipment that use diesel fuel. Such program shall have the following goals, provided that such program and goals do not prohibit the department from generating and selling EPart credits pursuant to section 414.407:

(1) On or before July 1, 2004, at least fifty percent of the department's vehicle fleet and heavy equipment that use diesel fuel shall use fuel with at least the biodiesel content of B-20, if such fuel is commercially available;

(2) On or before July 1, 2005, at least seventy-five percent of the department's vehicle fleet and heavy equipment that use diesel fuel shall use fuel with at least the biodiesel content of B-20, if such fuel is commercially available.

3. The blended biodiesel fuel shall be presumed to be commercially available if the incremental cost of such fuel is not more than twenty-five cents.

4. Nothing in this section is intended to create a state requirement for biodiesel fuel use in excess of the requirements of the federal National Energy Policy Act of 1992, Pub. L. 102-486; 42 U.S.C. 13251, 13257(o).

5. To the maximum extent practicable, the department shall obtain funding for the incremental cost of the blended biodiesel fuel from the biodiesel fuel revolving fund established in section 414.407.

6. The director of the Missouri department of transportation may promulgate any rules necessary to carry out the provisions of this section. No rule or portion of a rule promulgated pursuant to this section shall take effect unless it has been promulgated pursuant to chapter 536, RSMo.

640.100. COMMISSION, DUTIES, PROMULGATE RULES — POLITICAL SUBDIVISIONS MAY SET CERTAIN ADDITIONAL STANDARDS — CERTAIN DEPARTMENTS TEST WATER SUPPLY, WHEN — FEES, AMOUNT — FEDERAL COMPLIANCE — CUSTOMER FEES, EFFECTIVE, EXPIRES, WHEN. — 1. The safe drinking water commission created in section 640.105 shall

promulgate rules necessary for the implementation, administration and enforcement of sections 640.100 to 640.140 and the federal Safe Drinking Water Act as amended.

2. No standard, rule or regulation or any amendment or repeal thereof shall be adopted except after a public hearing to be held by the commission after at least thirty days' prior notice in the manner prescribed by the rulemaking provisions of chapter 536, RSMo, and an opportunity given to the public to be heard; the commission may solicit the views, in writing, of persons who may be affected by, knowledgeable about, or interested in proposed rules and regulations, or standards. Any person heard or registered at the hearing, or making written request for notice, shall be given written notice of the action of the commission with respect to the subject thereof. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated to administer and enforce sections 640.100 to 640.140 shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after June 9, 1998. All rulemaking authority delegated prior to June 9, 1998, is of no force and effect and repealed as of June 9, 1998, however, nothing in this section shall be interpreted to repeal or affect the validity of any rule adopted or promulgated prior to June 9, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this chapter or chapter 644, RSMo, shall affect the validity of any rule adopted and promulgated prior to June 9, 1998.

3. The commission shall promulgate rules and regulations for the certification of public water system operators, backflow prevention assembly testers and laboratories conducting tests pursuant to sections 640.100 to 640.140. Any person seeking to be a certified backflow prevention assembly tester shall satisfactorily complete standard, nationally recognized written and performance examinations designed to ensure that the person is competent to determine if the assembly is functioning within its design specifications. Any such state certification shall satisfy any need for local certification as a backflow prevention assembly tester. However, political subdivisions may set additional testing standards for individuals who are seeking to be certified as backflow prevention assembly testers. Notwithstanding any other provision of law to the contrary, agencies of the state or its political subdivisions shall only require carbonated beverage dispensers to conform to the backflow protection requirements established in the National Sanitation Foundation standard eighteen, and the dispensers shall be so listed by an independent testing laboratory. The commission shall promulgate rules and regulations for collection of samples and analysis of water furnished by municipalities, corporations, companies, state establishments, federal establishments or individuals to the public. The department of natural resources or the department of health and senior services shall, at the request of any supplier, make any analyses or tests required pursuant to the terms of section 192.320, RSMo, and sections 640.100 to 640.140. The department shall collect fees to cover the reasonable cost of laboratory services, both within the department of natural resources and the department of health and senior services, laboratory certification and program administration as required by sections 640.100 to 640.140. The laboratory services and program administration fees pursuant to this subsection shall not exceed two hundred dollars for a supplier supplying less than four thousand one hundred service connections, three hundred dollars for supplying less than seven thousand six hundred service connections, five hundred dollars for supplying seven thousand six hundred or more service connections, and five hundred dollars for testing surface water. Such fees shall be deposited in the safe drinking water fund as specified in section 640.110. The analysis of all drinking water required by section 192.320, RSMo, and sections 640.100 to 640.140 shall be made by the department of natural resources laboratories, department of health and senior services laboratories or laboratories certified by the department of natural resources.

4. The department of natural resources shall establish and maintain an inventory of public water supplies and conduct sanitary surveys of public water systems. Such records shall be available for public inspection during regular business hours.

5. (1) For the purpose of complying with federal requirements for maintaining the primacy of state enforcement of the federal Safe Drinking Water Act, the department is hereby directed to request appropriations from the general revenue fund and all other appropriate sources to fund the activities of the public drinking water program and in addition to the fees authorized pursuant to subsection 3 of this section, an annual fee for each customer service connection with a public water system is hereby authorized to be imposed upon all customers of public water systems in this state. The fees collected shall not exceed the amounts specified in this subsection and the commission may set the fees, by rule, in a lower amount by proportionally reducing all fees charged pursuant to this subsection from the specified maximum amounts. Each customer of a public water system shall pay an annual fee for each customer service connection.

(2) The annual fee per customer service connection for unmetered customers and customers with meters not greater than one inch in size, shall be based upon the number of service connections in the water system serving that customer, and shall not exceed:

1 to 1,000 connections	\$2.00
1,001 to 4,000 connections	1.84
4,001 to 7,000 connections	1.67
7,001 to 10,000 connections	1.50
10,001 to 20,000 connections	1.34
20,001 to 35,000 connections	1.17
35,001 to 50,000 connections	1.00
50,001 to 100,000 connections84
More than 100,000 connections66.

(3) The annual user fee for customers having meters greater than one inch but less than or equal to two inches in size shall not exceed five dollars; for customers with meters greater than two inches but less than or equal to four inches in size shall not exceed twenty-five dollars; and for customers with meters greater than four inches in size shall not exceed fifty dollars.

(4) Customers served by multiple connections shall pay an annual user fee based on the above rates for each connection, except that no single facility served by multiple connections shall pay a total of more than five hundred dollars per year.

6. Fees imposed pursuant to subsection 5 of this section shall become effective on August 28, 1992, and shall be collected by the public water system serving the customer. The commission shall promulgate rules and regulations on the procedures for billing, collection and delinquent payment. Fees collected by a public water system pursuant to subsection 5 of this section are state fees. The annual fee shall be enumerated separately from all other charges, and shall be collected in monthly, quarterly or annual increments. Such fees shall be transferred to the director of the department of revenue at frequencies not less than quarterly. Two percent of the revenue arising from the fees shall be retained by the public water system for the purpose of reimbursing its expenses for billing and collection of such fees.

7. Imposition and collection of the fees authorized in subsection 5 of this section shall be suspended on the first day of a calendar quarter if, during the preceding calendar quarter, the federally delegated authority granted to the safe drinking water program within the department of natural resources to administer the Safe Drinking Water Act, 42 U.S.C. 300g-2, is withdrawn. The fee shall not be reinstated until the first day of the calendar quarter following the quarter during which such delegated authority is reinstated.

8. Fees imposed pursuant to subsection 5 of this section shall expire on September 1, [2002] 2007.

640.825. BURDEN OF PROOF IN MATTERS HEARD BY DEPARTMENT, EXCEPTIONS. — In all matters heard by the department of natural resources in chapters 260, 278, 444, 640,

643, and 644, RSMo, the hazardous waste management commission in chapter 260, RSMo, the state soil and water districts commission in chapter 278, RSMo, the land reclamation commission in chapter 444, RSMo, the safe drinking water commission in this chapter, the air conservation commission in chapter 643, RSMo, and the clean water commission in chapter 644, RSMo, the burden of proof shall be upon the department of natural resources or the commission that issued the finding, order, decision or assessment being appealed, except that in matters involving the denial of a permit, license or registration, the burden of proof shall be on the applicant for such permit, license or registration.

643.220. MISSOURI EMISSIONS BANKING AND TRADING PROGRAM ESTABLISHED BY COMMISSION — PROMULGATION OF RULES. — 1. The commission shall promulgate rules establishing a "Missouri Air Emissions Banking and Trading Program" to achieve and maintain the National Ambient Air Quality Standards established by the United States Environmental Protection Agency pursuant to the federal Clean Air Act, 42 U.S.C. 7401, et seq., as amended. In promulgating such rules, the commission may consider, but not be limited to, inclusion of provisions concerning the definition and transfer of air emissions reduction credits or allowances between mobile sources, area sources and stationary sources, the role of offsets in emissions trading, interstate and regional emissions trading and the mechanisms necessary to facilitate emissions trading and banking, including consideration of the authority of other contiguous states.

2. The program shall:

(1) Not include any provisions prohibited by federal law;

(2) Be applicable to criteria pollutants and their precursors as defined by the federal Clean Air Act, as amended;

(3) Not allow banked or traded emissions credits to be used to meet federal Clean Air Act requirements for hazardous air pollutant standards pursuant to Section 112 of the federal Clean Air Act;

(4) Allow the banking and trading of criteria pollutants that are also hazardous air pollutants, as defined in Section 112 of the federal Clean Air Act, to the extent that verifiable emissions reductions achieved are in excess of those required to meet hazardous air pollutant emissions standards promulgated pursuant to Section 112 of the federal Clean Air Act;

(5) Authorize the direct trading of air emission reduction credits or allowances between nongovernmental parties, subject to the approval of the department;

(6) Allow net air emission reductions from federally approved permit conditions to be transferred to other sources for use as offsets required by the federal Clean Air Act in nonattainment areas to allow construction of new emission sources; and

(7) Not allow banking of air emission reductions unless they are in excess of reductions required by state or federal regulations or implementation plans.

3. The department shall verify, certify or otherwise approve the amount of an air emissions reduction credit before such credit is banked. Banked credits may be used, traded, sold or otherwise expended within the same nonattainment area, maintenance area or air quality modeling domain in which the air emissions reduction occurred, provided that there will be no resulting adverse impact of air quality.

4. To be creditable for deposit in the Missouri air emissions bank, a reduction in air emissions shall be permanent, quantifiable and federally approved.

5. To be tradeable between air emission sources, air emission reduction credits shall be based on air emission reductions that occur after August 28, 2001, **or shall be credits that exist in the current air emissions bank.**

6. In nonattainment areas, the bank of criteria pollutants and their precursors shall be reduced by three percent annually for as long as the area is classified as a nonattainment area.

644.016. DEFINITIONS. — When used in sections 644.006 to 644.141 and in standards, rules and regulations promulgated pursuant to sections 644.006 to 644.141, the following words and phrases mean:

(1) **"Aquaculture facility", a hatchery, fish farm, or other facility used for the production of aquatic animals that is required to have a permit pursuant to the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq.;**

[(1)] (2) **"Commission", the clean water commission of the state of Missouri created in section 644.021;**

[(2)] (3) **"Conference, conciliation and persuasion", a process of verbal or written communications consisting of meetings, reports, correspondence or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at a minimum, consist of one offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;**

[(3)] (4) **"Department", the department of natural resources;**

[(4)] (5) **"Director", the director of the department of natural resources;**

[(5)] (6) **"Discharge", the causing or permitting of one or more water contaminants to enter the waters of the state;**

[(6)] (7) **"Effluent control regulations", limitations on the discharge of water contaminants;**

[(7)] (8) **"General permit", a permit written with a standard group of conditions and with applicability intended for a designated category of water contaminant sources that have the same or similar operations, discharges and geographical locations, and that require the same or similar monitoring, and that would be more appropriately controlled pursuant to a general permit rather than pursuant to a site-specific permit;**

[(8)] (9) **"Human sewage", human excreta and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste, and other similar waste from household or establishment appurtenances;**

[(9)] (10) **"Income" includes retirement benefits, consultant fees, and stock dividends;**

[(10)] (11) **"Minor violation", a violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor;**

[(11)] (12) **"Permit by rule", a permit granted by rule, not by a paper certificate, and conditioned by the permit holder's compliance with commission rules;**

[(12)] (13) **"Permit holders or applicants for a permit" shall not include officials or employees who work full time for any department or agency of the state of Missouri;**

[(13)] (14) **"Person", any individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision, or any agency, board, department, or bureau of the state or federal government, or any other legal entity whatever which is recognized by law as the subject of rights and duties;**

[(14)] (15) **"Point source", any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged;**

[(15)] (16) **"Pollution", such contamination or other alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is reasonably certain to create a nuisance or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, industrial, agricultural, recreational, or other legitimate beneficial uses, or to wild animals, birds, fish or other aquatic life;**

[(16)] (17) **"Pretreatment regulations", limitations on the introduction of pollutants or water contaminants into publicly owned treatment works or facilities which the commission determines**

are not susceptible to treatment by such works or facilities or which would interfere with their operation, except that wastes as determined compatible for treatment pursuant to any federal water pollution control act or guidelines shall be limited or treated pursuant to this chapter only as required by such act or guidelines;

[(17)] (18) "Residential housing development", any land which is divided or proposed to be divided into three or more lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan for residential housing;

[(18)] (19) "Sewer system", pipelines or conduits, pumping stations, and force mains, and all other structures, devices, appurtenances and facilities used for collecting or conducting wastes to an ultimate point for treatment or handling;

[(19)] (20) "Significant portion of his or her income" shall mean ten percent of gross personal income for a calendar year, except that it shall mean fifty percent of gross personal income for a calendar year if the recipient is over sixty years of age, and is receiving such portion pursuant to retirement, pension, or similar arrangement;

[(20)] (21) "Site-specific permit", a permit written for discharges emitted from a single water contaminant source and containing specific conditions, monitoring requirements and effluent limits to control such discharges;

[(21)] (22) "Treatment facilities", any method, process, or equipment which removes, reduces, or renders less obnoxious water contaminants released from any source;

[(22)] (23) "Water contaminant", any particulate matter or solid matter or liquid or any gas or vapor or any combination thereof, or any temperature change which is in or enters any waters of the state either directly or indirectly by surface runoff, by sewer, by subsurface seepage or otherwise, which causes or would cause pollution upon entering waters of the state, or which violates or exceeds any of the standards, regulations or limitations set forth in sections 644.006 to 644.141 or any federal water pollution control act, or is included in the definition of pollutant in such federal act;

[(23)] (24) "Water contaminant source", the point or points of discharge from a single tract of property on which is located any installation, operation or condition which includes any point source defined in sections 644.006 to 644.141 and nonpoint source pursuant to any federal water pollution control act, which causes or permits a water contaminant therefrom to enter waters of the state either directly or indirectly;

[(24)] (25) "Water quality standards", specified concentrations and durations of water contaminants which reflect the relationship of the intensity and composition of water contaminants to potential undesirable effects;

[(25)] (26) "Waters of the state", all rivers, streams, lakes and other bodies of surface and subsurface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned, leased or otherwise controlled by a single person or by two or more persons jointly or as tenants in common and includes waters of the United States lying within the state.

644.036. PUBLIC HEARINGS — RULES AND REGULATIONS, HOW PROMULGATED —

LISTINGS UNDER CLEAN WATER ACT, REQUIREMENTS. — 1. No standard, rule or regulation or any amendment or repeal thereof shall be adopted except after a public hearing to be held after thirty days' prior notice by advertisement of the date, time and place of the hearing and opportunity given to the public to be heard. Notice of the hearings and copies of the proposed standard, rule or regulation or any amendment or repeal thereof shall also be given by regular mail, at least thirty days prior to the scheduled date of the hearing, to any person who has registered with the director for the purpose of receiving notice of such public hearings in accordance with the procedures prescribed by the commission at least forty-five days prior to the scheduled date of the hearing. However, this provision shall not preclude necessary changes during this thirty-day period.

2. At the hearing, opportunity to be heard by the commission with respect to the subject thereof shall be afforded any interested person upon written request to the commission, addressed to the director, not later than seven days prior to the hearing, and may be afforded to other persons if convenient. In addition, any interested persons, whether or not heard, may submit, within seven days subsequent to the hearings, a written statement of their views. The commission may solicit the views, in writing, of persons who may be affected by, or interested in, proposed rules and regulations, or standards. Any person heard or represented at the hearing or making written request for notice shall be given written notice of the action of the commission with respect to the subject thereof.

3. Any standard, rule or regulation or amendment or repeal thereof shall not be deemed adopted or in force and effect until it has been approved in writing by at least four members of the commission. A standard, rule or regulation or an amendment or repeal thereof shall not become effective until a certified copy thereof has been filed with the secretary of state as provided in chapter 536, RSMo.

4. Unless prohibited by any federal water pollution control act, any standard, rule or regulation or any amendment or repeal thereof which is adopted by the commission may differ in its terms and provisions as between particular types and conditions of water quality standards or of water contaminants, as between particular classes of water contaminant sources, and as between particular waters of the state.

5. Any listing required by Section 303(d) of the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq., to be sent to the U.S. Environmental Protection Agency for their approval that will result in any waters of this state being classified as impaired shall be adopted by rule pursuant to chapter 536, RSMo. Total maximum daily loads shall not be required for any listed waters that subsequently are determined to meet water quality standards.

644.051. PROHIBITED ACTS — PERMITS REQUIRED, WHEN, FEE — BOND REQUIRED OF PERMIT HOLDERS, WHEN — PERMIT APPLICATION PROCEDURES — RULEMAKING — LIMITATION ON USE OF PERMIT FEE MONEYS. — 1. It is unlawful for any person:

(1) To cause pollution of any waters of the state or to place or cause or permit to be placed any water contaminant in a location where it is reasonably certain to cause pollution of any waters of the state;

(2) To discharge any water contaminants into any waters of the state which reduce the quality of such waters below the water quality standards established by the commission;

(3) To violate any pretreatment and toxic material control regulations, or to discharge any water contaminants into any waters of the state which exceed effluent regulations or permit provisions as established by the commission or required by any federal water pollution control act;

(4) To discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the waters of the state.

2. It shall be unlawful for any person to build, erect, alter, replace, operate, use or maintain any water contaminant or point source in this state that is subject to standards, rules or regulations promulgated pursuant to the provisions of sections 644.006 to 644.141 unless such person holds a permit from the commission, subject to such exceptions as the commission may prescribe by rule or regulation. However, no permit shall be required of any person for any emission into publicly owned treatment facilities or into publicly owned sewer systems tributary to publicly owned treatment works.

3. Every proposed water contaminant or point source which, when constructed or installed or established, will be subject to any federal water pollution control act or sections 644.006 to 644.141 or regulations promulgated pursuant to the provisions of such act shall make application to the director for a permit at least thirty days prior to the initiation of construction or installation or establishment. Every water contaminant or point source in existence when regulations or

sections 644.006 to 644.141 become effective shall make application to the director for a permit within sixty days after the regulations or sections 644.006 to 644.141 become effective, whichever shall be earlier. The director shall promptly investigate each application, which investigation shall include such hearings and notice, and consideration of such comments and recommendations as required by sections 644.006 to 644.141 and any federal water pollution control act. If the director determines that the source meets or will meet the requirements of sections 644.006 to 644.141 and the regulations promulgated pursuant thereto, the director shall issue a permit with such conditions as he or she deems necessary to ensure that the source will meet the requirements of sections 644.006 to 644.141 and any federal water pollution control act as it applies to sources in this state. If the director determines that the source does not meet or will not meet the requirements of either act and the regulations pursuant thereto, the director shall deny the permit pursuant to the applicable act and issue any notices required by sections 644.006 to 644.141 and any federal water pollution control act.

4. Before issuing a permit to build or enlarge a water contaminant or point source or reissuing any permit, the director shall issue such notices, conduct such hearings, and consider such factors, comments and recommendations as required by sections 644.006 to 644.141 or any federal water pollution control act. The director shall determine if any state or any provisions of any federal water pollution control act the state is required to enforce, any state or federal effluent limitations or regulations, water quality-related effluent limitations, national standards of performance, toxic and pretreatment standards, or water quality standards which apply to the source, or any such standards in the vicinity of the source, are being exceeded, and shall determine the impact on such water quality standards from the source. The director, in order to effectuate the purposes of sections 644.006 to 644.141, shall deny a permit if the source will violate any such acts, regulations, limitations or standards or will appreciably affect the water quality standards or the water quality standards are being substantially exceeded, unless the permit is issued with such conditions as to make the source comply with such requirements within an acceptable time schedule. **Prior to the development or renewal of a general permit or permit by rule, for aquaculture, the director shall convene a meeting or meetings of permit holders and applicants to evaluate the impacts of permits and to discuss any terms and conditions that may be necessary to protect waters of the state. Following the discussions, the director shall finalize a draft permit that considers the comments of the meeting participants and post the draft permit on notice for public comment. The director shall concurrently post with the draft permit an explanation of the draft permit and shall identify types of facilities which are subject to the permit conditions. Affected public or applicants for new general permits, renewed general permits or permits by rule may request a hearing with respect to the new requirements in accordance with this section. If a request for a hearing is received, the commission shall hold a hearing to receive comments on issues of significant technical merit and concerns related to the responsibilities of the Missouri clean water law. The commission shall conduct such hearings in accordance with this section. After consideration of such comments, a final action on the permit shall be rendered. The time between the date of the hearing request and the hearing itself shall not be counted as time elapsed pursuant to subdivision (1) of subsection 13 of this section.**

5. The director shall grant or deny the permit within sixty days after all requirements of the Federal Water Pollution Control Act concerning issuance of permits have been satisfied unless the application does not require any permit pursuant to any federal water pollution control act. The director or the commission may require the applicant to provide and maintain such facilities or to conduct such tests and monitor effluents as necessary to determine the nature, extent, quantity or degree of water contaminant discharged or released from the source, establish and maintain records and make reports regarding such determination.

6. The director shall promptly notify the applicant in writing of his or her action and if the permit is denied state the reasons therefor. The applicant may appeal to the commission from

the denial of a permit or from any condition in any permit by filing notice of appeal with the commission within thirty days of the notice of denial or issuance of the permit. The commission shall set the matter for hearing not less than thirty days after the notice of appeal is filed. In no event shall a permit constitute permission to violate the law or any standard, rule or regulation promulgated pursuant thereto.

7. In any hearing held pursuant to this section the burden of proof is on the applicant for a permit. Any decision of the commission made pursuant to a hearing held pursuant to this section is subject to judicial review as provided in section 644.071.

8. In any event, no permit issued pursuant to this section shall be issued if properly objected to by the federal government or any agency authorized to object pursuant to any federal water pollution control act unless the application does not require any permit pursuant to any federal water pollution control act.

9. Unless a site-specific permit is requested by the applicant, aquaculture facilities shall be governed by a general permit issued pursuant to this section with a fee not to exceed two hundred fifty dollars pursuant to subdivision (5) of subsection 6 of section 644.052. However, any aquaculture facility which materially violates the conditions and requirements of such permit may be required to obtain a site-specific permit.

[9.] 10. No manufacturing or processing plant or operating location shall be required to pay more than one operating fee. Operating permits shall be issued for a period not to exceed five years after date of issuance, except that general permits shall be issued for a five-year period, and also except that neither a construction nor an annual permit shall be required for a single residence's waste treatment facilities. Applications for renewal of an operating permit shall be filed at least one hundred eighty days prior to the expiration of the existing permit.

[10.] 11. Every permit issued to municipal or any publicly owned treatment works or facility shall require the permittee to provide the clean water commission with adequate notice of any substantial new introductions of water contaminants or pollutants into such works or facility from any source for which such notice is required by sections 644.006 to 644.141 or any federal water pollution control act. Such permit shall also require the permittee to notify the clean water commission of any substantial change in volume or character of water contaminants or pollutants being introduced into its treatment works or facility by a source which was introducing water contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or to be introduced into such works or facility by a source which was introducing water contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or to be introduced into such works or facility and the anticipated impact of such introduction on the quality or quantity of effluent to be released from such works or facility into waters of the state.

[11.] 12. The director or the commission may require the filing or posting of a bond as a condition for the issuance of permits for construction of temporary or future water treatment facilities in an amount determined by the commission to be sufficient to ensure compliance with all provisions of sections 644.006 to 644.141, and any rules or regulations of the commission and any condition as to such construction in the permit. The bond shall be signed by the applicant as principal, and by a corporate surety licensed to do business in the state of Missouri and approved by the commission. The bond shall remain in effect until the terms and conditions of the permit are met and the provisions of sections 644.006 to 644.141 and rules and regulations promulgated pursuant thereto are complied with.

[12.] 13. (1) The department shall issue or deny applications for construction and site-specific operating permits received after January 1, 2001, within one hundred eighty days of the department's receipt of an application. For general construction and operating permit applications received after January 1, 2001, that do not require a public participation process, the department shall issue or deny the requested permits within sixty days of the department's receipt of an application.

(2) If the department fails to issue or deny with good cause a construction or operating permit application within the time frames established in subdivision (1) of this subsection, the department shall refund the full amount of the initial application fee within forty-five days of failure to meet the established time frame. If the department fails to refund the application fee within forty-five days, the refund amount shall accrue interest at a rate established pursuant to section 32.065, RSMo.

(3) Permit fee disputes may be appealed to the commission within thirty days of the date established in subdivision (2) of this subsection. If the applicant prevails in a permit fee dispute appealed to the commission, the commission may order the director to refund the applicant's permit fee plus interest and reasonable attorney's fees as provided in sections 536.085 and 536.087, RSMo. A refund of the initial application or annual fee does not waive the applicant's responsibility to pay any annual fees due each year following issuance of a permit.

(4) No later than December 31, 2001, the commission shall promulgate regulations defining shorter review time periods than the time frames established in subdivision (1) of this subsection, when appropriate, for different classes of construction and operating permits. In no case shall commission regulations adopt permit review times that exceed the time frames established in subdivision (1) of this subsection. The department's failure to comply with the commission's permit review time periods shall result in a refund of said permit fees as set forth in subdivision (2) of this subsection. On a semiannual basis, the department shall submit to the commission a report which describes the different classes of permits and reports on the number of days it took the department to issue each permit from the date of receipt of the application and show averages for each different class of permits.

(5) During the department's technical review of the application, the department may request the applicant submit supplemental or additional information necessary for adequate permit review. The department's technical review letter shall contain a sufficient description of the type of additional information needed to comply with the application requirements.

(6) Nothing in this subsection shall be interpreted to mean that inaction on a permit application shall be grounds to violate any provisions of sections 644.006 to 644.141 or any rules promulgated pursuant to sections 644.006 to 644.141.

[13.] 14. The department shall respond to all requests for individual certification under Section 401 of the Federal Clean Water Act within the lesser of sixty days or the allowed response period established pursuant to applicable federal regulations without request for an extension period unless such extension is determined by the commission to be necessary to evaluate significant impacts on water quality standards and the commission establishes a timetable for completion of such evaluation in a period of no more than one hundred eighty days.

[14.] 15. All permit fees generated pursuant to this chapter shall not be used for the development or expansion of total maximum daily loads studies on either the Missouri or Mississippi rivers.

644.052. PERMIT TYPES, FEES, AMOUNTS — REQUESTS FOR PERMIT MODIFICATIONS — REQUESTS FOR FEDERAL CLEAN WATER CERTIFICATIONS. —

1. Persons with operating permits or permits by rule issued pursuant to this chapter shall pay fees pursuant to subsections 2 to 8 and 12 to 13 of this section. Persons with a sewer service connection to public sewer systems owned or operated by a city, public sewer district, public water district or other publicly owned treatment works shall pay a permit fee pursuant to subsections 10 and 11 of this section.

2. A privately owned treatment works or an industry which treats only human sewage shall annually pay a fee based upon the design flow of the facility as follows:

- (1) One hundred dollars if the design flow is less than five thousand gallons per day;
- (2) One hundred fifty dollars if the design flow is equal to or greater than five thousand gallons per day but less than six thousand gallons per day;
- (3) One hundred seventy-five dollars if the design flow is equal to or greater than six thousand gallons per day but less than seven thousand gallons per day;

(4) Two hundred dollars if the design flow is equal to or greater than seven thousand gallons per day but less than eight thousand gallons per day;

(5) Two hundred twenty-five dollars if the design flow is equal to or greater than eight thousand gallons per day but less than nine thousand gallons per day;

(6) Two hundred fifty dollars if the design flow is equal to or greater than nine thousand gallons per day but less than ten thousand gallons per day;

(7) Three hundred seventy-five dollars if the design flow is equal to or greater than ten thousand gallons per day but less than eleven thousand gallons per day;

(8) Four hundred dollars if the design flow is equal to or greater than eleven thousand gallons per day but less than twelve thousand gallons per day;

(9) Four hundred fifty dollars if the design flow is equal to or greater than twelve thousand gallons per day but less than thirteen thousand gallons per day;

(10) Five hundred dollars if the design flow is equal to or greater than thirteen thousand gallons per day but less than fourteen thousand gallons per day;

(11) Five hundred fifty dollars if the design flow is equal to or greater than fourteen thousand gallons per day but less than fifteen thousand gallons per day;

(12) Six hundred dollars if the design flow is equal to or greater than fifteen thousand gallons per day but less than sixteen thousand gallons per day;

(13) Six hundred fifty dollars if the design flow is equal to or greater than sixteen thousand gallons per day but less than seventeen thousand gallons per day;

(14) Eight hundred dollars if the design flow is equal to or greater than seventeen thousand gallons per day but less than twenty thousand gallons per day;

(15) One thousand dollars if the design flow is equal to or greater than twenty thousand gallons per day but less than twenty-three thousand gallons per day;

(16) Two thousand dollars if the design flow is equal to or greater than twenty-three thousand gallons per day but less than twenty-five thousand gallons per day;

(17) Two thousand five hundred dollars if the design flow is equal to or greater than twenty-five thousand gallons per day but less than thirty thousand gallons per day;

(18) Three thousand dollars if the design flow is equal to or greater than thirty thousand gallons per day but less than one million gallons per day; or

(19) Three thousand five hundred dollars if the design flow is equal to or greater than one million gallons per day.

3. Persons who produce industrial process wastewater which requires treatment and who apply for or possess a site-specific permit shall annually pay:

(1) Five thousand dollars if the industry is a class IA animal feeding operation as defined by the commission; or

(2) For facilities issued operating permits based upon categorical standards pursuant to the Federal Clean Water Act and regulations implementing such act:

(a) Three thousand five hundred dollars if the design flow is less than one million gallons per day; or

(b) Five thousand dollars if the design flow is equal to or greater than one million gallons per day.

4. Persons who apply for or possess a site-specific permit solely for industrial storm water shall pay an annual fee of:

(1) One thousand three hundred fifty dollars if the design flow is less than one million gallons per day; or

(2) Two thousand three hundred fifty dollars if the design flow is equal to or greater than one million gallons per day.

5. Persons who produce industrial process wastewater who are not included in subsection 2 or 3 of this section shall annually pay:

(1) One thousand five hundred dollars if the design flow is less than one million gallons per day; or

(2) Two thousand five hundred dollars if the design flow is equal to or greater than one million gallons per day.

6. Persons who apply for or possess a general permit shall pay:

(1) Three hundred dollars for the discharge of storm water from a land disturbance site;

(2) Fifty dollars annually for the operation of a chemical fertilizer or pesticide facility;

(3) One hundred fifty dollars for the operation of an animal feeding operation or a concentrated animal feeding operation;

(4) One hundred fifty dollars annually for new permits for the discharge of process water or storm water potentially contaminated by activities not included in subdivisions (1) to (3) of this subsection. Persons paying fees pursuant to this subdivision with existing general permits on August 27, 2000, and persons paying fees pursuant to this subdivision who receive renewed general permits on the same facility after August 27, 2000, shall pay sixty dollars annually;

(5) Up to two hundred fifty dollars annually for the operation of an aquaculture facility.

7. Requests for modifications to state operating permits on entities that charge a service connection fee pursuant to subsection 10 of this section shall be accompanied by a two hundred-dollar fee. The department may waive the fee if it is determined that the necessary modification was either initiated by the department or caused by an error made by the department.

8. Requests for state operating permit modifications other than those described in subsection 7 of this section shall be accompanied by a fee equal to twenty-five percent of the annual operating fee assessed for the facility pursuant to this section. The department may waive the fee if it is determined that the necessary modification was either initiated by the department or caused by an error made by the department.

9. Persons requesting water quality certifications in accordance with Section 401 of the Federal Clean Water Act shall pay a fee of seventy-five dollars and shall submit the standard application form for a Section 404 permit as administered by the U.S. Army Corps of Engineers or similar information required for other federal licenses and permits, except that the fee is waived for water quality certifications issued and accepted for activities authorized pursuant to a general permit or nationwide permit by the U.S. Army Corps of Engineers.

10. Persons with a direct or indirect sewer service connection to a public sewer system owned or operated by a city, public sewer district, public water district, or other publicly owned treatment works shall pay an annual fee per water service connection as provided in this subsection. Customers served by multiple water service connections shall pay such fee for each water service connection, except that no single facility served by multiple connections shall pay more than a total of seven hundred dollars per year. The fees provided for in this subsection shall be collected by the agency billing such customer for sewer service and remitted to the department. The fees may be collected in monthly, quarterly or annual increments, and shall be remitted to the department no less frequently than annually. The fees collected shall not exceed the amounts specified in this subsection and, except as provided in subsection 11 of this section, shall be collected at the specified amounts unless adjusted by the commission in rules. The annual fees shall not exceed:

(1) For sewer systems that serve more than thirty-five thousand customers, forty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(2) For sewer systems that serve equal to or less than thirty-five thousand but more than twenty thousand customers, fifty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(3) For sewer systems that serve equal to or less than twenty thousand but more than seven thousand customers, sixty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(4) For sewer systems that serve equal to or less than seven thousand but more than one thousand customers, seventy cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(5) For sewer systems that serve equal to or less than one thousand customers, eighty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(6) Three dollars for commercial or industrial customers not served by a public water system as defined in chapter 640, RSMo;

(7) Three dollars per water service connection for all other customers with water service connections of less than or equal to one inch excluding taps for fire suppression and irrigation systems;

(8) Ten dollars per water service connection for all other customers with water service connections of more than one inch but less than or equal to four inches, excluding taps for fire suppression and irrigation systems;

(9) Twenty-five dollars per water service connection for all other customers with water service connections of more than four inches, excluding taps for fire suppression and irrigation systems.

11. Customers served by any district formed pursuant to the provisions of section 30(a) of article VI of the Missouri Constitution shall pay the fees set forth in subsection 10 of this section according to the following schedule:

(1) From August 28, 2000, through September 30, 2001, customers of any such district shall pay fifty percent of such fees; and

(2) Beginning October 1, 2001, customers of any such districts shall pay one hundred percent of such fees.

12. Persons submitting a notice of intent to operate pursuant to a permit by rule shall pay a filing fee of twenty-five dollars.

13. For any general permit issued to a state agency for highway construction pursuant to subdivision (1) of subsection 6 of this section, a single fee may cover all sites subject to the permit.

644.578. COMMISSION MAY BORROW ADDITIONAL \$10,000,000 FOR PURPOSES OF WATER POLLUTION CONTROL, IMPROVEMENT OF DRINKING WATER, AND STORM WATER CONTROL. — In addition to those sums authorized prior to August 28, 2003, the board of fund commissioners of the state of Missouri, as authorized by section 37(e) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and this chapter.

644.579. COMMISSION MAY BORROW ADDITIONAL \$10,000,000 FOR PURPOSES OF RURAL WATER AND SEWER GRANTS AND LOANS. — In addition to those sums authorized prior to August 28, 2003, the board of fund commissioners of the state of Missouri, as authorized by section 37(g) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

644.580. COMMISSION MAY BORROW ADDITIONAL \$20,000,000 FOR PURPOSES OF STORM WATER CONTROL. — In addition to those sums authorized prior to August 28, 2003, the board of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of twenty million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

SECTION 1. EMISSIONS LIMITATION FOR CERTAIN COAL-FIRED CYCLONE BOILERS — EXPIRATION DATE. — Notwithstanding any provisions of law to the contrary, any utility unit, as defined in Title IV of the federal Clean Air Act, 42 U.S.C. Section 7851a, that uses coal-fired cyclone boilers which also burn tire derived fuel shall limit emissions of oxides of nitrogen to a rate no greater than eighty percent of the emission limit for cyclone-fired boilers in Title IV of the federal Clean Air Act and implementing regulations in 40 CFR Part 76, as amended. The provisions of this section shall expire on April 30, 2004, or upon the effective date of a revision to 10 CSR 10-6.350, whichever later occurs. The director of the department of natural resources shall notify the revisor of statutes of the effective date of a revision to 10 CSR 10-6.350.

Approved July 11, 2002

SB 992 [HCS SB 992]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes Buchanan County to seek a grant from the Contiguous Property Redevelopment Fund.

AN ACT to repeal section 447.721, RSMo, and to enact in lieu thereof two new sections relating to property development.

SECTION

A. Enacting clause.

253.395. Historic preservation revolving fund authorized — definitions — use of fund.

447.721. Contiguous property redevelopment fund created — grants issued to certain counties by department, criteria — rulemaking authority — expiration date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 447.721, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 253.395 and 447.721, to read as follows:

253.395. HISTORIC PRESERVATION REVOLVING FUND AUTHORIZED — DEFINITIONS — USE OF FUND. — 1. As used in this section, the following terms mean:

(1) "Historic properties" or "property", any building, structure, district, area, or site within a municipality's boundaries that is significant in the history, architecture, archaeology, or culture of this state, its communities, or this country, which is eligible for nomination to the National Register of Historic Places;

(2) "Municipality", any town, city, or village that has by ordinance established a historic preservation revolving fund as authorized by this section.

2. Any town, city, or village in the state of Missouri may by ordinance establish a fund for the purpose of protecting and preserving historic properties, such fund to be known as the "Historic Preservation Revolving Fund". All expenses incurred in the acquisition of and all revenues received from the disposition of property as provided in subsections 3 and 4 of this section shall be paid for out of and deposited in the historic preservation revolving fund. Any moneys appropriated and any other moneys made available by gift, grant, bequest, contribution, or otherwise to carry out the purpose of this section, and all interest earned on, and income generated from, moneys in the fund shall be paid to, and deposited in, the historic preservation revolving fund.

3. From the moneys in the historic preservation revolving fund, such municipality may acquire, preserve, restore, hold, maintain, or operate any historic properties, together with such adjacent or associated lands within the municipality's boundaries as may be necessary for their protection, preservation, maintenance, or operation. Any interest in property acquired using the moneys in the historic preservation revolving fund shall be limited to that estate, agency, interest, or term deemed by such municipality to be reasonably necessary for the continued protection or preservation of the property. The moneys in this fund may be used to acquire the fee simple title, but where such municipality finds that a lesser interest, including any development right, negative or affirmative easement in gross or appurtenant covenant, lease or other contractual right of or to any real property to be the most practical and economical method of protecting and preserving historical property, the lesser interest may be acquired. Property may be acquired by gift, grant, bequest, devise, lease, purchase, or otherwise, but not by condemnation.

4. Such municipality may acquire or, in the case of property on which moneys from this fund have been expended, dispose of the fee or lesser interest to any historic property, including adjacent and associated lands, for the specific purpose of conveying or leasing the property back to its original owner or to any such other person, firm, association, corporation, or other organization under such covenants, deed restrictions, lease, or other contractual arrangements as will limit the future use of the property in such a way as to insure its preservation. In all cases where property on which money from this fund has been expended is conveyed or leased, it shall be subjected by covenant or otherwise to such rights of access, public visitation, and other conditions as may be agreed upon between the municipality and the grantee or lessee to operate, maintain, restore, or repair such property. Any conveyance or lease shall contain a reversion clause providing that, in the event the historic property is not operated, maintained, restored, and repaired in accordance with the provisions of this section or in such a way as to insure its preservation, title, and control of such property shall immediately revert to and vest in the municipality.

447.721. CONTIGUOUS PROPERTY REDEVELOPMENT FUND CREATED — GRANTS ISSUED TO CERTAIN COUNTIES BY DEPARTMENT, CRITERIA — RULEMAKING AUTHORITY — EXPIRATION DATE. — 1. There is hereby created in the state treasury the "Contiguous Property Redevelopment Fund", which shall consist of all moneys appropriated to the fund, all moneys required by law to be deposited in the fund, and all gifts, bequests or donations of any kind to the fund. The fund shall be administered by the department of economic development. Subject to appropriation, the fund shall be used solely for the administration of and the purposes described in this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not be transferred to the general revenue fund at the end of the biennium; provided, however, that all moneys in the fund on August 28, 2006, shall be transferred to the general revenue fund and the fund shall be abolished as of that date. All interest and moneys earned on investments from moneys in the fund shall be credited to the fund.

2. The governing body of any city not within a county, any county of the first classification without a charter form of government and a population of more than two hundred seven thousand but less than three hundred thousand, any county of the first classification with a population of more than nine hundred thousand, **any county of the first classification without a charter form of government and with a population of more than eighty-five thousand nine hundred but less than eighty-six thousand**, any city with a population of more than three hundred fifty thousand that is located in more than one county or any county of the first classification with a charter form of government and a population of more than six hundred thousand but less than nine hundred thousand may apply to the department of economic development for a grant from the contiguous property redevelopment fund. The department of

economic development may promulgate the form for such applications in a manner consistent with this section. Grants from the fund may be made to the governing body to assist the body both acquiring multiple contiguous properties within such city and engaging in the initial redeveloping of such properties for future use as private enterprise. For purposes of this section, "initial redeveloping" shall include all allowable costs, as that term is defined in section 447.700, and any other costs involving the improvement of the property to a state in which its redevelopment will be more economically feasible than such property would have been if such improvements had not been made.

3. In awarding grants pursuant to this section, the department shall give preference to those projects which propose the assembly of a greater number of acreage than other projects and to those projects which show that private interest exists for usage of the property once any redevelopment aided by grants pursuant to this section is completed.

4. The department of economic development may promulgate rules for the enforcement of this section. [No rule or portion of a rule promulgated pursuant to this section shall take effect unless it has been promulgated pursuant to chapter 536, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.**

5. The provisions of this section shall expire on August 28, 2006.

Approved July 12, 2002

SB 997 [SCS SB 997]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies duties of county collectors with respect to financial institutions.

AN ACT to repeal section 140.110, RSMo, and to enact in lieu thereof one new section relating to collection of back taxes.

SECTION

A. Enacting clause.

140.110. Collection of back taxes, payments applied, how, exceptions — removal of lien.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 140.110, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 140.110, to read as follows:

140.110. COLLECTION OF BACK TAXES, PAYMENTS APPLIED, HOW, EXCEPTIONS — REMOVAL OF LIEN. — 1. [The collectors of the respective counties shall collect the taxes contained in the back tax book. Any person interested in or the owner of any tract of land or lot contained in the back tax book may redeem the tract of land or town lot, or any part thereof, from the state's lien thereon, by paying to the proper collector the amount of the original taxes,

as charged against the tract of land or town lot described in the back tax book together with interest from the day upon which the tax first became delinquent at the rate specified in section 140.100.

2. Any payment for personal property taxes received by the county collector shall first be applied to any back delinquent personal taxes on the back tax book before a county collector accepts any payment for all or any part of personal property taxes due and assessed on the current tax book.

3. Any payment for real property taxes received by the county collector shall first be applied to back delinquent taxes on the same individual parcel of real estate on the back tax book before a county collector accepts payment for real property taxes due and assessed on the current tax book.

4. Subsection 3 of this section shall not apply to payment for real property taxes by financial institutions, as defined in section 381.410, RSMo, who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulations.] **The collectors of the respective counties shall collect the taxes contained in the back tax book. Any person interested in or the owner of any tract of land or lot contained in the back tax book may redeem the tract of land or town lot, or any part thereof, from the state's lien thereon, by paying to the proper collector the amount of the original taxes, as charged against the tract of land or town lot described in the back tax book together with interest from the day upon which the tax first became delinquent at the rate specified in section 140.100.**

2. Any payment for personal property taxes received by the county collector shall first be applied to any back delinquent personal taxes on the back tax book before a county collector accepts any payment for all or any part of personal property taxes due and assessed on the current tax book.

3. Any payment for real property taxes received by the county collector shall first be applied to back delinquent taxes on the same individual parcel of real estate on the back tax book before a county collector accepts payment for real property taxes due and assessed on the current tax book.

4. Subsection 3 of this section shall not apply to payment for real property taxes by financial institutions, as defined in section 381.410, RSMo, who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulations.

Approved July 3, 2002

SB 1001 [SB 1001]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires all counties or St. Louis to participate in funding the Sheriffs' Retirement System if participating in the system.

AN ACT to amend chapter 57, RSMo, by adding thereto one new section relating to sheriff's retirement.

SECTION

A. Enacting clause.

57.962. Sheriff's retirement system, election to be subject to by counties and St. Louis City permitted.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 57, RSMo, is amended by adding thereto one new section, to be known as section 57.962, to read as follows:

57.962. SHERIFF'S RETIREMENT SYSTEM, ELECTION TO BE SUBJECT TO BY COUNTIES AND ST. LOUIS CITY PERMITTED. — **Other provisions of law to the contrary notwithstanding, any county or city not within a county who has elected or elects in the future to come under the provisions of sections 57.949 to 57.997 shall, after August 28, 2002, or on the date that such election is approved by the board of directors of the retirement system, whichever later occurs, be subject to the provisions of section 57.955.**

Approved June 21, 2002

SB 1009 [HCS SS SCS SB 1009]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows insurance companies to invest in certain businesses.

AN ACT to repeal sections 375.330, 375.345, 376.307, 376.311, 376.671, 376.951, 376.952, 376.955, 376.957, and 379.080, RSMo, and to enact in lieu thereof fourteen new sections relating to investments by insurance companies.

SECTION

- A. Enacting clause.
- 375.330. Purchase and ownership of real estate.
- 375.345. Derivative transactions permitted, conditions — definitions — rules.
- 376.307. Limits on investments which are not eligible for state deposit.
- 376.311. Investment of capital reserve and surplus of life insurance companies in investment pools — definitions — qualifications — requirements.
- 376.671. Provisions which shall be contained in annuity contracts.
- 376.951. Law, how cited — definitions.
- 376.952. Laws applicable, Medicare supplement laws not applicable — purpose — policies or riders must be in compliance.
- 376.955. Policies, content requirements, provisions prohibited — rules authorized.
- 376.957. Coverage outline to be delivered to applicants, when, content.
- 376.1121. Denial of claim, long-term care insurance, duties of issuer.
- 376.1124. Rescinding of a long-term care policy, permitted when — grounds for contesting — no field issuance, when.
- 376.1127. Nonforfeiture benefit option required for long-term care insurance policies, requirements of offer — rulemaking authority.
- 376.1130. Rulemaking authority.
- 379.080. Capital and surplus of stock or mutual company, investments authorized — violation, penalty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 375.330, 375.345, 376.307, 376.311, 376.671, 376.951, 376.952, 376.955, 376.957, and 379.080, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 375.330, 375.345, 376.307, 376.311, 376.671, 376.951, 376.952, 376.955, 376.957, 376.1121, 376.1124, 376.1127, 376.1130, and 379.080, to read as follows:

375.330. PURCHASE AND OWNERSHIP OF REAL ESTATE. — 1. No insurance company formed under the laws of this state shall be permitted to purchase, hold or convey real estate, excepting for the purpose and in the manner herein set forth, to wit:

(1) Such as shall be necessary for its accommodation in the transaction of its business; provided that before the purchase of real estate for any such purpose, the approval of the director of the department of insurance must be first had and obtained, and [in no event shall] **except with the approval of the director**, the value of such real estate, together with all appurtenances thereto, purchased for such purpose[:

(a) If a stock company, exceed the amount of its capital stock;

(b) If a fire or casualty company, but not a stock company, exceed sixty percent of its surplus or ten percent of its admitted assets, as shown by its last annual statement preceding the date of acquisition, as filed with the director of the department of insurance, whichever is the lesser; or

(c) If any other type or kind of insurance company, exceed sixty percent of its surplus or five percent of its admitted assets, as shown by its last annual statement, whichever is the lesser] **shall not exceed twenty percent of the insurance company's capital and surplus as shown by its last annual statement**; or

(2) Such as shall have been mortgaged in good faith by way of security for loans previously contracted, or for moneys due; or

(3) Such as shall have been conveyed to it in satisfaction of debts contracted in the course of its dealings; or

(4) Such as shall have been purchased at sales upon the judgments, decrees or mortgages obtained or made for such debts; or

(5) Such as shall be necessary and proper for carrying on its legitimate business under the provisions of the Urban Redevelopment Corporations Act; or

(6) Such as shall have been acquired under the provisions of the Urban Redevelopment Corporations Act permitting such company to purchase, own, hold or convey real estate; or

(7) Such real estate, or any interest therein, as may be acquired or held by it by purchase, lease or otherwise, as an investment for the production of income, which real estate or interest therein may thereafter be held, improved, developed, maintained, managed, leased, sold or conveyed by it as real estate necessary and proper for carrying on its legitimate business; or

(8) A reciprocal or interinsurance exchange may, in its own name, purchase, sell, mortgage, hold, encumber, lease, convey, or otherwise affect the title to real property for the purposes and objects of the reciprocal or interinsurance exchange. Such deeds, notes, mortgages or other documents relating to real property may be executed by the attorney in fact of the reciprocal or interinsurance exchange. This provision shall be retroactive and shall apply to real estate owned or sold by a reciprocal insurer prior to August 28, 1990.

2. The investments acquired under subdivision (7) of subsection 1 of this section may be in either existing or new business or industrial properties, or for new residential properties or new housing purposes.

3. Provided, no such insurance company shall invest more than ten percent of its admitted assets, as shown by its last annual statement preceding the date of acquisition, as filed with the director of the department of insurance of the state of Missouri, in the total amount of real estate acquired under subdivision (7) of subsection 1, nor more under subdivision (7) of subsection 1 than one percent of its admitted assets or ten percent of its capital and surplus, whichever is greater, in any one property, nor more under subdivision (7) of subsection 1 than one percent of its admitted assets or ten percent of its capital and surplus, whichever is greater, in total properties leased or rented to any one individual, partnership or corporation.

4. It shall not be lawful for any company incorporated as aforesaid to purchase, hold or convey real estate in any other case or for any other purpose; and all such real estate acquired in payment of a debt, by foreclosure or otherwise, and real estate exchanged therefor, shall be sold and disposed of within ten years after such company shall have acquired absolute title to the

same, unless the company owning such real estate or interest therein shall elect to hold it pursuant to subdivision (7) of subsection 1.

5. The director of the department of insurance may, for good cause shown, extend the time for holding such real estate acquired in paying of a debt, by foreclosure or otherwise, and real estate exchanged therefor, and not held by the company under subdivision (7) of subsection 1, for such period as he may find to be to the best interests of the policyholders of said company.

6. If a life insurance company depositing under section 376.170, RSMo, becomes the owner of real estate pursuant to this section, the company may execute its own deed for the real estate to the director of the department of insurance, as trustee. The deed may be deposited with the director as proper security, under and according to the provisions of sections 376.010 to 376.670, RSMo, the value to be subject to the approval of the director.

375.345. DERIVATIVE TRANSACTIONS PERMITTED, CONDITIONS — DEFINITIONS — RULES.— 1. As used in this section, the following words and terms mean:

(1) ["Call option", an exchange-traded option contract under which the holder has the right to buy (or to make a cash settlement in lieu thereof) a fixed number of shares of stock, a fixed amount of an underlying security, or an index of underlying securities at a stated price on or before a fixed expiration date;

(2) "Commodity Futures Trading Commission", the federal regulatory agency charged and empowered under the Commodity Futures Trading Commission Act of 1974, as amended, with the regulation of futures trading in commodities;

(3) "Financial futures contract", an exchange-traded agreement to make or take delivery of (or to make cash settlement in lieu thereof) a fixed amount of an underlying security, or an index of underlying securities, on a specified date or during a specified period of time, or a call or put option on such an agreement, made through a registered futures commission merchant on a board of trade which has been designated by the Commodity Futures Trading Commission as a contract market. Such financial futures contracts shall include the following categories: United States treasury bills, bonds and notes; securities or pools of securities issued by the Government National Mortgage Association; bank certificates of deposit; Standard and Poor's 500 Stock Price Index; NYSE Composite Index; KC Value Line Index; and such other agreements which have been approved by and which are governed by the rules and regulations of the Commodity Futures Trading Commission and the respective contract markets on which such financial futures contracts are traded;

(4) "Margin", any type of deposit or settlement made or required to be made with a futures commission merchant, clearinghouse, or safekeeping agent to insure performance of the terms of the financial futures contract. For the purposes of this section, "margin" includes initial, maintenance and variation margins as such terms are commonly and customarily employed in the futures industry;

(5) "Put option", an exchange-traded option contract under which the holder has the right to sell (or to make a cash settlement in lieu thereof) a fixed number of shares of stock, fixed amount of an underlying security, or an index of underlying securities at a stated price on or before a fixed expiration date;

(6) "Securities and Exchange Commission", the federal regulatory agency charged and empowered under the Securities Exchange Act of 1934, as amended, with the regulation of trading in securities; and

(7) "Underlying security", the security subject to being purchased or sold upon exercise of a call option or put option, or the security subject to delivery under a financial futures contract.]

"Admitted assets", assets permitted to be reported as admitted assets on the statutory financial statement of the insurance company most recently required to be filed with the director, but excluding assets of separate accounts, the investments of which are not subject to the provisions of law governing the general investment account of the insurance company;

(2) "Cap", an agreement obligating the seller to make payments to the buyer, with each payment based on the amount by which a reference price, level, performance, or value of one or more underlying interests exceeds a predetermined number, sometimes called the strike rate or strike price;

(3) "Collar", an agreement to receive payments as the buyer of an option, cap, or floor and to make payments as the seller of a different option, cap, or floor;

(4) "Counterparty exposure amount":

(a) The amount of credit risk attributable to an over-the-counter derivative instrument. The amount of credit risk equals:

a. The market value of the over-the-counter derivative instrument if the liquidation of the derivative instrument would result in a final cash payment to the insurance company; or

b. Zero if the liquidation of the derivative instrument would not result in a final cash payment to the insurance company;

(b) If over-the-counter derivative instruments are entered into under a written master agreement which provides for netting of payments owed by the respective parties, and the domicile of the counterparty is either within the United States or within a foreign jurisdiction listed in the Purposes and Procedures of the Securities Valuation Office as eligible for netting, the net amount of credit risk shall be the greater of zero or the net sum of:

a. The market value of the over-the-counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment to the insurance company; and

b. The market value of the over-the-counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment by the insurance company to the business entity;

(c) For open transactions, market value shall be determined at the end of the most recent quarter of the insurance company's fiscal year and shall be reduced by the market value of acceptable collateral held by the insurance company or placed in escrow by one or both parties;

(5) "Derivative instrument", an agreement, option, instrument, or a series or combination thereof that makes, takes delivery of, assumes, relinquishes, or makes a cash settlement in lieu of a specified amount of one or more underlying interests, or that has a price, performance, value, or cash flow based primarily upon the actual or expected price, level, performance, value or cash flow of one or more underlying interests. Derivative instruments also include options, warrants used in a hedging transaction and not attached to another financial instrument, caps, floors, collars, swaps, forwards, futures and any other agreements, options or instruments substantially similar thereto, and any other agreements, options, or instruments permitted under rules or orders promulgated by the director;

(6) "Derivative transaction", a transaction involving the use of one or more derivative instruments;

(7) "Director", the director of the department of insurance of this state;

(8) "Floor", an agreement obligating the seller to make payments to the buyer in which each payment is based on the amount by which a predetermined number, sometimes called the floor rate or price, exceeds a reference price, level, performance, or value of one or more underlying interests;

(9) "Forward", an agreement other than a future to make or take delivery of, or effect a cash settlement based on the actual or expected price, level, performance or value of, one or more underlying interests, but not including spot transactions effected within customary settlement periods, when issued purchases or other similar cash market transactions;

(10) "Future", an agreement traded on an exchange to make or take delivery of, or effect a cash settlement based on the actual or expected price, level, performance or value of one or more underlying interests and which includes an insurance future;

(11) "Hedging transaction", a derivative transaction that is entered into and maintained to reduce:

(a) The risk of economic loss due to a change in the value, yield, price, cash flow or quantity of assets or liabilities that the insurance company has acquired or incurred or anticipates acquiring or incurring;

(b) The currency exchange rate risk or the degree of exposure as to assets or liabilities that the insurance company has acquired or incurred or anticipates acquiring or incurring; or

(c) Risk through such other derivative transactions as may be specified to constitute hedging transactions by rules or orders adopted by the director;

(12) "Income generation transaction":

(a) A derivative transaction involving the writing of covered call options, covered put options, covered caps or covered floors that is intended to generate income or enhance return; or

(b) Such other derivative transactions as may be specified to constitute income generation transactions in rules or orders adopted by the director;

(13) "Initial margin", the amount of cash, securities or other consideration initially required to be deposited to establish a futures position;

(14) "NAIC", the National Association of Insurance Commissioners;

(15) "Option", an agreement giving the buyer the right to buy or receive, sell or deliver, enter into, extend, terminate or effect a cash settlement based on the actual or expected price, level, performance or value of one or more underlying interests;

(16) "Over-the-counter derivative instrument", a derivative instrument entered into with a business entity other than through an exchange or clearinghouse;

(17) "Potential exposure", the amount determined in accordance with the NAIC Annual Statement Instructions;

(18) "Replication transaction", a derivative transaction effected either separately or in conjunction with cash market investments included in the insurer's investment portfolio and intended to replicate the investment characteristic of another authorized transaction, investment or instrument or to operate as a substitute for cash market transactions. A derivative transaction that is entered into as a hedging transaction or an income generation transaction shall not be considered a replication transaction;

(19) "SVO", the Securities Valuation Office of the NAIC or any successor office established by the NAIC;

(20) "Swap", an agreement to exchange or to net payments at one or more times based on the actual or expected price, level, performance or value of one or more underlying interests;

(21) "Underlying interest", the assets, liabilities, other interests, or a combination thereof underlying a derivative instrument, such as any one or more securities, currencies, rates, indices, commodities or derivative instruments;

(22) "Warrant", an instrument that gives the holder the right to purchase an underlying financial instrument at a given price and time or at a series of prices and times outlined in the warrant agreement.

2. [The purchase and sale of put options or call options may take place] An insurance company may, directly or indirectly through an investment subsidiary, engage in derivative transactions pursuant to this section under the following conditions:

(1) [An insurance company may purchase put options or sell call options with regard to underlying securities owned by the insurance company, underlying securities which the insurance company may reasonably expect to obtain through exercise of warrants or conversion rights

owned by the insurance company at the time the put option is purchased or the call option is sold, or to reduce the economic risk associated with an insurance company asset or liability, group of such assets or liabilities, or assets, liabilities or groups of assets or liabilities reasonably expected to be acquired or incurred by the insurance company in the normal course of business. Such assets or liabilities must be subject to an economic risk, such as changing interest rates or prices.

(2) An insurance company may sell put options or purchase call options to reduce the economic risk associated with an insurance company asset or liability, group of such assets or liabilities, or assets, liabilities or groups of assets or liabilities reasonably expected to be acquired or incurred by the insurance company in the normal course of business, or to offset obligations and rights of the insurance company under other options held by the insurance company pertaining to the same underlying securities, or index of underlying securities.

(3) An insurance company may purchase or sell put options or call options only on underlying securities, or an index of underlying securities, which are eligible for investment by an insurance company under the laws of the state of Missouri.

(4) An insurance company may purchase or sell put or call options only through an exchange which is registered with the Securities and Exchange Commission as a national securities exchange pursuant to the provisions of the Securities Exchange Act of 1934, as amended.

(5) An insurance company shall not purchase call options or sell put options, if such purchase or sale could result in the acquisition of an amount of underlying securities which, when aggregated with current holdings, exceeds applicable limitations imposed under the laws of the state of Missouri for investment in those particular underlying securities by the type or kind of insurance company involved.

(6) The premiums paid for all option contracts purchased, less the premiums received for all option contracts sold, plus amounts calculated pursuant to subdivision (3) of subsection 3 of this section, shall not at any one time exceed in the aggregate five percent of the insurance company's admitted assets.

3. The purchase and sale of financial futures contracts may take place under the following conditions:

(1) An insurance company may purchase or sell financial futures contracts for the purpose of hedging against the economic risk associated with an insurance company asset or liability, group of such assets or liabilities, or assets, liabilities or groups of assets or liabilities reasonably expected to be acquired or incurred by the insurance company in its normal course of business. Such assets or liabilities must be subject to an economic risk, such as changing interest rates or prices.

(2) An insurance company shall not purchase or sell financial futures contracts or options on such contracts, if such purchase or sale could result in the acquisition of an amount of underlying securities which, when aggregated with current holdings, exceeds applicable limitations imposed under the laws of the state of Missouri for investment in those particular underlying securities by the type or kind of insurance company involved.

(3) For all purchased or sold financial futures contracts together, plus amounts calculated pursuant to subdivision (6) of subsection 2 of this section, an insurance company shall not invest at any one time an aggregate amount of more than five percent of its admitted assets. For the purposes of transactions in financial futures contracts, such admitted assets limitation shall be calculated by taking the net asset value of the property used to margin the financial futures contract positions, plus option premiums paid on financial futures contracts, less option premiums received on financial futures contracts.

4.] In general:

(a) An insurance company may use derivative instruments pursuant to this chapter to engage in hedging transactions and certain income generation transactions;

(b) Upon request, an insurance company shall demonstrate to the director, the intended hedging characteristics and the ongoing effectiveness of the derivative transaction or combination of the transactions through cash flow testing or other appropriate analyses;

(2) An insurance company shall only maintain its position in any outstanding derivative instrument used as part of a hedging transaction for as long as the hedging transaction continues to be effective;

(3) An insurance company may enter into hedging transactions if as a result of and after giving effect to the transaction:

(a) The aggregate statement value of options, caps, floors and warrants not attached to another financial instrument purchased and used in hedging transactions then engaged in by the insurer does not exceed seven and one-half percent of its admitted assets;

(b) The aggregate statement value of options, caps and floors written in hedging transactions then engaged in by the insurer does not exceed three percent of its admitted assets; and

(c) The aggregate potential exposure of collars, swaps, forwards and futures used in hedging transactions then engaged in by the insurer does not exceed six and one-half percent of its admitted assets;

(4) An insurance company may only enter into the following types of income generation transactions if as a result of and after giving effect to an income generation transaction, the aggregate statement value of the fixed income assets that are subject to call or that generate the cash flows for payments under the caps or floors, plus the face value of fixed income securities underlying a derivative instrument subject to call, plus the amount of the purchase obligations under the puts, shall not exceed ten percent of its admitted assets:

(a) Sales of covered call options on noncallable fixed income securities, callable fixed income securities if the option expires by its terms prior to the end of the noncallable period, or derivative instruments based on fixed income securities;

(b) Sales of covered call options on equity securities if the insurance company holds in its portfolio or can immediately acquire through the exercise of options, warrants or conversion rights already owned, the equity securities subject to call during the complete term of the call option sold;

(c) Sales of covered puts on investments that the insurance company is permitted to acquire under the applicable insurance laws of the state, if the insurance company has escrowed or entered into a custodian agreement segregating cash or cash equivalents with a market value equal to the amount of its purchase obligations under the put during the complete term of the put option sold; or

(d) Sales of covered caps or floors if the insurance company holds in its portfolio the investments generating the cash flow to make the required payments under the caps or floors during the complete term that the cap or floor is outstanding;

(5) An insurance company may use derivative instruments for replication transactions only after the director promulgates reasonable rules that set forth methods of disclosure, reserving for risk-based capital, and determining the asset valuation reserve for these instruments. Any asset being replicated is subject to all the provisions and limitations on the making thereof specified in chapters 375, 376, and 379, RSMo, with respect to investments by the insurer as if the transaction constituted a direct investment by the insurer in the replicated asset;

(6) An insurance company shall include all counterparty exposure amounts in determining compliance with this state's single-entity investment limitations;

(7) The director may approve, by rule or order, additional transaction conditions involving the use of derivative instruments for other risk management purposes.

3. Written investment policies and recordkeeping procedures shall be approved by the board of directors of the insurance company or by a committee authorized by such board before the insurance company may engage in the practices and activities authorized by this section. These policies and procedures must be specific enough to define and control permissible and suitable investment strategies with regard to [put options, call options, and financial futures contracts] **derivative transactions** with a view toward the protection of the policyholders. The minutes of any such committee shall be recorded and regular reports of such committee shall be submitted to the board of directors.

[5.] 4. The director [of the department of insurance] may promulgate **reasonable** rules[, guidelines] and regulations **pursuant to the provisions of chapter 536, RSMo, not inconsistent with this section and any other insurance laws of this state**, establishing standards and requirements relating to practices and activities authorized in this section, **including, but not limited to, rules which impose financial solvency standards, valuation standards, and reporting requirements.**

376.307. LIMITS ON INVESTMENTS WHICH ARE NOT ELIGIBLE FOR STATE DEPOSIT. —

1. Notwithstanding any direct or implied prohibitions in chapter 375 or 376, RSMo, the capital, reserve and surplus funds of all life insurance companies of whatever kind and character organized or doing business under chapter 375 or 376, RSMo, may be invested in any investments which do not otherwise qualify under any other provision of chapter 375 or 376, RSMo, provided, however, the investments authorized by this section are not eligible for deposit with the department of insurance and shall be subject to all the limitations set forth in subsection 2.

2. No such life insurance company shall [invest in] **own** such investments in an amount in excess of the following limitations, to be based upon its admitted assets, capital and surplus as shown in its last annual statement [preceding the date of the acquisition of such investment, all as] filed with the director of the department of insurance of the state of Missouri:

(1) The aggregate amount of all such investments under this section shall not exceed the lesser of (a) eight percent of its admitted assets or (b) the amount of its capital and surplus in excess of nine hundred thousand dollars; and

(2) The amount of any one such investment under this section shall not exceed one percent of its admitted assets.

3. If, subsequent to its acquisition hereunder, any such investment shall become specifically authorized or permitted under any other section contained in chapter 375 or 376, RSMo, any such company may thereafter consider such investment as held under such other applicable section and not under this section.

376.311. INVESTMENT OF CAPITAL RESERVE AND SURPLUS OF LIFE INSURANCE COMPANIES IN INVESTMENT POOLS—DEFINITIONS—QUALIFICATIONS—REQUIREMENTS.

— 1. In addition to the investments permitted by other provisions of the laws, the capital reserve and surplus of all life insurance companies of whatever kind and character, organized or doing business pursuant to this chapter, may be invested in an investment pool meeting the requirements set out below, and any other provision of law relating to investments made by life insurance companies.

2. As used in this section, the following terms mean:

(1) "Business entity", a corporation, limited liability company, association, partnership, joint stock company, joint venture, mutual fund trust, or other similar form of business organization, including such an entity when organized as a not-for-profit entity;

(2) "Qualified bank", a national bank, state bank or trust company that at all times is no less than adequately capitalized as determined by the standards adopted by the United States banking regulators and that is either regulated by state banking laws or is a member of the Federal Reserve System.

3. (1) Qualified investment pools shall invest only in investments which an insurer may acquire pursuant to this chapter and other provisions of law. The insurer's proportionate interest in these investments may not exceed the applicable limits of this section and other provisions of law.

(2) An insurer shall not acquire an investment in an investment pool pursuant to this subsection if, after giving effect to the investment, the aggregate amount of investments in all investment pools then held by the insurer would exceed thirty percent of its assets.

(3) For an investment in an investment pool to be qualified pursuant to this chapter, the investment pool shall not:

(a) Acquire securities issued, assumed, guaranteed or insured by the insurer or an affiliate of the insurer;

(b) Borrow or incur any indebtedness for borrowed money, except for securities lending and reverse repurchase transactions;

(c) Lend money or other assets to participants in the pool.

(4) For an investment pool to be qualified pursuant to this chapter, the manager of the investment pool shall:

(a) Be organized pursuant to the laws of the United States or a state and designated as the pool manager in a pooling agreement;

(b) Be the insurer; an affiliated insurer; **a business entity affiliated with the insurer**; a qualified bank; a business entity registered pursuant to the Investment Advisors Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.) as amended; or, in the case of a reciprocal insurer or interinsurance exchange, its attorney-in-fact.

(5) The pool manager, or an agent designated by the pool manager, shall compile and maintain detailed accounting records setting forth:

(a) The cash receipts and disbursements reflecting each participant's proportionate investment in the investment pool;

(b) A complete description of all underlying assets of the investment pool including amount, interest rate, maturity date (if any) and other appropriate designations; and

(c) Other records which, on a daily basis, allow third parties to verify each participant's investments in the investment pool.

(6) The pool manager shall maintain the assets of the investment pool in one **or more** custody [account] **accounts**, in the name of or on behalf of the investment pool, under [a] **one or more** custody [agreement] **agreements** with a qualified bank. [All custodial agreements shall be filed with the department of insurance for prior approval. The] **Each** custody agreement shall:

(a) State and recognize the claims and rights of each participant;

(b) Acknowledge that the underlying assets of the investment pool are held solely for the benefit of each participant in proportion to the aggregate amount of its investments in the investment pool; and

(c) Contain an agreement that the underlying assets of the investment pool shall not be commingled with the general assets of the qualified bank or any other person.

(7) The pooling agreement for each investment pool shall be in writing and shall provide that:

(a) An insurer and its [affiliated insurers] **affiliates** shall, at all times, hold one hundred percent of the interests in the investment pool;

(b) The underlying assets of the investment pool shall not be commingled with the general assets of the pool manager or any other person;

(c) The aggregate amount of each pool participant's interest in the investment pool shall be in proportion to:

a. Each participant's undivided interest in the underlying assets of the investment pool; and

b. The underlying assets of the investment pool held solely for the benefit of each participant;

(d) A participant or, in the event of the participant's insolvency, bankruptcy or receivership, its trustee, receiver, conservator or other successor-in-interest may withdraw all or any portion of its investment from the investment pool under the terms of the pooling agreement;

(e) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlement of funds shall occur within a reasonable and customary period thereafter, provided:

a. In the case of publicly traded securities, settlement shall not exceed five business days; and

b. In the case of all other securities and investments, settlement shall not exceed ten business days.

Distributions pursuant to this paragraph shall be calculated in each case net of all then applicable fees and expenses of the investment pool.

(8) The pooling agreement shall provide that the pool manager shall distribute to a participant, at the discretion of the pool manager:

(a) In cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool; or

(b) In-kind, a pro rata share of each underlying asset; or

(c) In a combination of cash and in-kind distributions, a pro rata share in each underlying asset;

(9) The pool manager shall make the records of the investment pool available for inspection by the director.

4. The pooling agreement and any other arrangements or agreements relating to an investment pool, and any amendments thereto, shall be submitted to the department of insurance for prior approval pursuant to section 382.195, RSMo. Individual financial transactions between the pool and its participants in the ordinary course of the investment pool's operations shall not be subject to the provisions of section 382.195, RSMo. Investment activities of pools and transactions between pools and participants shall be reported annually in the registration statement required by section 382.100, RSMo.

376.671. PROVISIONS WHICH SHALL BE CONTAINED IN ANNUITY CONTRACTS. — 1. This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.

2. In the case of contracts issued on or after the operative date of this section as defined in subsection 11, no contract of annuity, except as stated in subsection 1, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the director are at least as favorable to the contractholder, upon cessation of payment of considerations under the contract:

(1) That upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections 4, 5, 6, 7, and 9;

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections 4, 5, 7, and 9. The company shall reserve the right to defer the payment of such cash surrender benefit for a period of six months after demand therefor with surrender of the contract;

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits;

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this section, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

3. The minimum values as specified in subsections 4, 5, 6, 7, and 9 of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(1) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payment shall be equal to an accumulation up to such time at a rate of interest of three percent per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of

(a) Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent per annum; and

(b) The amount of any indebtedness to the company on the contract, including interest due and accrued and increased by any existing additional amounts credited by the company to the contract. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars and less a collection charge of one dollar and twenty-five cents per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent of the net consideration for the first contract year and eighty-seven and one-half percent of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent;

(2) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two exceptions:

(a) The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent of the net consideration for the first contract year plus twenty-two and one-half percent of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years;

(b) The annual contract charge shall be the lesser of thirty dollars or ten percent of the gross annual consideration;

(3) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage

of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent, and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars;

(4) Notwithstanding any other provision of this subsection, for any contract issued on or after July 1, 2002, and before July 1, 2004, the interest rate at which net considerations, prior withdrawals, and partial surrenders shall be accumulated for the purpose of determining minimum nonforfeiture amounts shall be one and one-half percent per annum.

4. Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

5. For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

6. For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

7. For the purpose of determining the benefits calculated under subsections 5 and 6, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity date, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

8. Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

9. Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations

beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

10. For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections 4, 5, 6, 7, and 9, additional benefits payable in the event of total and permanent disability, as reversionary annuity or deferred reversionary annuity benefits, or as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

11. After September 28, 1979, any company may file with the director a written notice of its election to comply with the provisions of this section after a specified date before September 28, 1981. After the filing of such notice, then upon such specified date, which shall be the operative date of this section for such company, this section shall become operative with respect to annuity contracts thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be September 28, 1981.

376.951. LAW, HOW CITED — DEFINITIONS. — 1. Sections 376.951 to 376.958 and sections 376.1121 to 376.1130 may be known and cited as the "Long-term Care Insurance Act".

2. As used in sections 376.951 to 376.958 and sections 376.1121 to 376.1130 the following terms mean:

(1) "Applicant":

(a) In the case of an individual long-term care insurance policy, the person who seeks to contract for benefits; and

(b) In the case of a group long-term care insurance policy, the proposed certificate holder;

(2) "Certificate", any certificate [or evidence of coverage] issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this state;

(3) "Director", the director of the department of insurance of this state;

(4) "Group long-term care insurance", a long-term care insurance policy which is delivered or issued for delivery in this state and issued to:

(a) One or more employers or labor organizations, or to a trust or to the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees or a combination thereof or for members or former members or a combination thereof, of the labor organization; or

(b) Any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association;

a. Is composed of individuals all of whom are or were actively engaged in the same profession, trade or occupation; and

b. Has been maintained in good faith for purposes other than obtaining insurance; or

(c) An association or a trust or the trustee of a fund established, created or maintained for the benefit of members of one or more associations. Prior to advertising, marketing or offering such policy within this state, the association or associations, or the insurer of the association or associations, shall file evidence with the director that the association or associations have at the outset a minimum of one hundred persons and have been organized and maintained in good faith for purposes other than that of obtaining insurance; have been in active existence for at least one year; and have a constitution and bylaws which provide that:

a. The association or associations hold regular meetings not less than annually to further purposes of the members;

b. Except for credit unions, the association or associations collect dues or solicit contributions from members; and

c. The members have voting privileges and representation on the governing board and committees. Thirty days after such filing the association or associations shall be deemed to satisfy such organizational requirements, unless the director makes a finding that the association or associations do not satisfy those organizational requirements;

(d) A group other than as described in paragraph (a), (b) or (c) of subdivision (4) of this subsection, subject to a finding by the director that:

a. The issuance of the group policy is not contrary to the best interest of the public;

b. The issuance of the group policy would result in economies of acquisition or administration; and

c. The benefits are reasonable in relation to the premiums charged;

(5) "Long-term care insurance", any **insurance** policy[, contract, certificate, evidence of coverage] or rider advertised, marketed, offered or designed to provide coverage for not less than twelve consecutive months for each covered person on an expense-incurred, indemnity, prepaid or other basis; for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance of personal care services, provided in a setting other than an acute care unit of a hospital. Such term includes group and individual annuities and life insurance policies or riders which provide directly or which supplement long-term care insurance. Such term also includes a policy or rider which provides for payment of benefits based upon cognitive impairment or the loss of functional capacity. **Long-term care insurance also includes qualified long-term care insurance contracts.** Long-term care insurance may be issued by insurers; fraternal benefit societies; health services corporations; prepaid health plans; [and] health maintenance organizations, or any **similar organization** to the extent they are otherwise authorized to **issue life or health insurance**. Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage. **With respect to life insurance, long-term care insurance does not include life insurance policies that accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement, and that provide the option of a lump-sum payment for those benefits and neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.** Notwithstanding any other provision of sections 376.951 to 376.958 and sections 376.1121 to 376.1130 to the contrary, any product advertised, marketed, or offered as long-term care insurance shall be subject to the provisions of sections 376.951 to 376.958 and sections 376.1121 to 376.1130;

(6) "Policy", any policy, [contract, certificate, evidence of coverage,] subscriber agreement, rider or endorsement delivered or issued for delivery in this state by an insurer; fraternal benefit society; health services corporation; prepaid health plan [or], health maintenance organization, or any **similar organization**;

(7) "Qualified long-term care insurance contract" or "federally tax-qualified long-term care insurance contract", the portion of a life insurance contract that provides long-term care insurance coverage by rider or as part of the contract that satisfies the requirements of Section 7702B(b) and (e) of the Internal Revenue Code of 1986, as amended. Qualified long-term care insurance contract also includes an individual or group insurance contract that meets the requirements of Section 7702B(b) of the Internal Revenue Code of 1986, as amended, as follows:

(a) The only insurance protection provided under the contract is coverage of qualified long-term care services. A contract shall not fail to satisfy the requirements of this paragraph by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which payments relate;

(b) The contract does not pay or reimburse expenses incurred for services or items to the extent that the expenses are reimbursable under Title XVIII of the Social Security Act, as amended, or would be so reimbursable but for the application of a deductible or coinsurance amount. The requirements of this paragraph do not apply to expenses that are reimbursable under Title XVIII of the Social Security Act only as a secondary payor. A contract shall not fail to satisfy the requirements of this paragraph by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate;

(c) The contract is guaranteed renewable within the meaning of Section 7702B(b)(1)(C) of the Internal Revenue Code of 1986, as amended;

(d) The contract does not provide for a cash surrender value or other money that can be paid, assigned, pledged as collateral for a loan, or borrowed except as provided in paragraph (e) of this subdivision;

(e) All refunds of premiums and all policyholder dividends or similar amounts under the contract are to be applied as a reduction in future premiums or to increase future benefits, except that a refund on the event of death of the insured or a complete surrender or cancellation of the contract shall not exceed the aggregate premiums paid under the contract; and

(f) The contract meets the consumer protection provisions set forth in Section 7702B(g) of the Internal Revenue Code of 1986, as amended.

376.952. LAWS APPLICABLE, MEDICARE SUPPLEMENT LAWS NOT APPLICABLE — PURPOSE — POLICIES OR RIDERS MUST BE IN COMPLIANCE. — 1. The provisions of sections 376.951 to 376.958 and sections 376.1121 to 376.1130 shall apply to policies delivered or issued for delivery in this state on or after August 28, [1990] 2002. Sections 376.951 to 376.958 and sections 376.1121 to 376.1130 are not intended to supersede the obligations of entities subject to the provisions of sections 376.951 to 376.958 and sections 376.1121 to 376.1130 to comply with the substance of other applicable insurance laws insofar as they do not conflict with the provisions of sections 376.951 to 376.958 and sections 376.1121 to 376.1130, except that laws and regulations designed and intended to apply to medicare supplement insurance policies shall not be applied to long-term care insurance.

2. The purposes of the provisions of sections 376.951 to 376.958 and sections 376.1121 to 376.1130 are to promote the public interest, to promote the availability of long-term care insurance policies, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to establish standards for long-term care insurance, to facilitate public understanding and comparison of long-term care insurance policies, and to facilitate flexibility and innovation in the development of long-term care insurance coverage.

3. Any policy or rider advertised, marketed or offered as long-term care or nursing home insurance shall comply with the provisions of sections 376.951 to 376.958 and sections 376.1121 to 376.1130.

376.955. POLICIES, CONTENT REQUIREMENTS, PROVISIONS PROHIBITED — RULES AUTHORIZED. — 1. The director may adopt regulations that include standards for full and fair disclosure setting forth the manner, content and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions

and definitions of terms. Regulations adopted pursuant to sections 376.951 to 376.958 **and sections 376.1121 to 376.1130** shall be in accordance with the provisions of chapter 536, RSMo.

2. No long-term care insurance policy may:

(1) Be canceled, nonrenewed or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder; or

(2) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder; or

(3) Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than for lower levels of care.

3. No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in paragraph (a) of subdivision (4) of subsection 2 of section 376.951:

(1) Shall use a definition of preexisting condition which is more restrictive than the following: "Preexisting condition" means a condition for which medical advice or treatment was recommended by, or received from, a provider of health care services, within six months preceding the effective date of coverage of an insured person;

(2) May exclude coverage for a loss or confinement which is the result of a preexisting condition unless such loss or confinement begins within six months following the effective date of coverage of an insured person.

4. The director may extend the limitation periods set forth in subdivisions (1) and (2) of subsection 3 of this section as to specific age group categories in specific policy forms upon findings that the extension is in the best interest of the public.

5. The definition of preexisting condition provided in subsection 3 of this section does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in subdivision (2) of subsection 3 of this section expires. No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in subdivision (2) of subsection 3 of this section.

6. No long-term care insurance policy may be delivered or issued for delivery in this state if such policy:

(1) Conditions eligibility for any benefits on a prior hospitalization requirement; or

(2) Conditions eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care; or

(3) Conditions eligibility for any benefits [on a prior institutionalization requirement, except in the case of] **other than** waiver of premium, post-confinement, post-acute care or recuperative benefits **on a prior institutionalization requirement**.

7. A long-term care insurance policy containing post-confinement, post-acute care or recuperative benefits shall clearly label in a separate paragraph of the policy or certificate entitled "Limitations or Conditions on Eligibility for Benefits" such limitations or conditions, including any required number of days of confinement.

8. A long-term care insurance policy or rider which conditions eligibility of noninstitutional benefits on the prior receipt of institutional care shall not require a prior institutional stay of more than thirty days.

9. No long-term care insurance policy or rider which provides benefits only following institutionalization shall condition such benefits upon admission to a facility for the same or related conditions within a period of less than thirty days after discharge from the institution.

10. The director may adopt regulations establishing loss ratio standards for long-term care insurance policies provided that a specific reference to long-term care insurance policies is contained in the regulation.

11. Long-term care insurance applicants shall have the right to return the policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Long-term care insurance policies and certificates shall have a notice prominently printed on the first page or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, other than a certificate issued pursuant to a policy issued to a group defined in paragraph (a) of subdivision (4) of subsection 2 of section 376.951, the applicant is not satisfied for any reason. **This subsection shall also apply to denials of applications and any refund must be made within thirty days of the return of denial.**

376.957. COVERAGE OUTLINE TO BE DELIVERED TO APPLICANTS, WHEN, CONTENT. —

1. An outline of coverage shall be delivered to a prospective applicant for long-term care insurance at the time of initial solicitation through means which prominently direct the attention of the recipient to the document and its purpose. The director shall prescribe a standard format, including style, arrangement and overall appearance, and the content of an outline of coverage. In the case of agent solicitations, an agent shall deliver the outline of coverage prior to the presentation of an [applicant] **application** or enrollment form. In the case of direct response solicitations, the outline of coverage shall be presented in conjunction with any application or enrollment form. **In the case of a policy issued to a group defined in section 376.951, an outline of coverage shall not be required to be delivered; provided that the information described in subdivisions (1) to (6) of subsection 2 of this section is contained in other materials relating to enrollment. Upon request, such other materials shall be made available to the director.**

2. The outline of coverage shall include:

- (1) A description of the principal benefits and coverage provided in the policy;
- (2) A statement of the principal exclusions, reductions, and limitations contained in the policy;
- (3) A statement of the terms under which the policy or certificate, or both, may be continued in force or discontinued, including any reservation in the policy of a right to change the premium. Continuation or conversion provisions of group coverage shall be specifically described;
- (4) A statement that the outline of coverage is a summary only, not a contract of insurance, and that the policy or group master policy contains governing contractual provisions;
- (5) A description of the terms under which the policy or certificate may be returned and premium refunded; [and]
- (6) A brief description of the relationship of cost of care and benefits; **and**
- (7) **A statement that discloses to the policyholder or certificate holder whether the policy is intended to be a federally tax-qualified long-term care insurance contract under Section 7702B(b) of the Internal Revenue Code of 1986, as amended.**

3. A certificate issued pursuant to a group long-term care insurance policy which policy is delivered or issued for delivery in this state shall include:

- (1) A description of the principal benefits and coverage provided in the policy;
- (2) A statement of the principal exclusions, reductions and limitations contained in the policy; and

(3) A statement that the group master policy determines governing contractual provisions.

4. **If an application for a long-term care insurance contract or certificate is approved, the issuer shall deliver the contract or certificate of insurance to the applicant no later than thirty days after the date of approval.**

5. At the time of policy delivery, a policy summary shall be delivered for an individual life insurance policy which provides long-term care benefits within the policy or by rider. In the case of direct response solicitations, the insurer shall deliver the policy summary upon the applicant's request, but regardless of request shall make such delivery no later than at the time of policy delivery. In addition to complying with all applicable requirements, the summary shall also include:

- (1) An explanation of how the long-term care benefit interacts with other components of the policy, including deductions from death benefits;
- (2) An illustration of the amount of benefits, the length of benefit, and the guaranteed lifetime benefits, if any, for each covered person;
- (3) Any exclusions, reductions and limitations on benefits of long-term care; [and]
- (4) **A statement that any long-term care inflation protection option may be required by the laws of this state is not available under the policy; and**
- (5) If applicable to the policy type, the summary shall also include:
 - (a) A disclosure of the effects of exercising other rights under the policy;
 - (b) A disclosure of guarantees related to long-term care costs of insurance charges [or notice that such guarantees are included in the policy or rider; and];
 - (c) Current and projected maximum lifetime benefits; and
 - (d) **The provisions of the policy summary listed in paragraphs (a) to (c) of this subdivision may be incorporated into a basic illustration required to be delivered in accordance with sections 375.1509, RSMo, or into the life insurance policy summary required to be delivered in accordance with section 376.706.**

376.1121. DENIAL OF CLAIM, LONG-TERM CARE INSURANCE, DUTIES OF ISSUER. — If a claim under a long-term care insurance contract is denied, the issuer shall within sixty days of the date of a written request by the policyholder or certificate holder or a representative thereof:

- (1) **Provide a written explanation of the reasons for the denial; and**
- (2) **Make available all information directly related to the denial.**

376.1124. RESCINDING OF A LONG-TERM CARE POLICY, PERMITTED WHEN — GROUNDS FOR CONTESTING — NO FIELD ISSUANCE, WHEN. — 1. For a policy or certificate that has been in force less than six months, an insurer may rescind a long-term care insurance policy or certificate, or deny an otherwise valid long-term care insurance claim upon a showing of misrepresentation that is material to the acceptance for coverage.

2. For a policy or certificate that has been in force for at least six months but less than two years, an insurer may rescind a long-term care insurance policy or certificate, or deny an otherwise valid long-term care insurance claim upon a showing of misrepresentation that is both material to the acceptance of coverage and which pertains to the conditions for which benefits are sought.

3. After a policy or certificate has been in force for two years, such policy or certificate is not contestable upon the grounds of misrepresentation alone. Such policy or certificate may be contested only upon a showing that the insured knowingly and intentionally misrepresented relevant facts relating to the insured's health.

4. No long-term care insurance policy or certificate shall be field issued based on medical or health status. For purposes of this subsection, "field issued" means a policy or certificate issued by an agent or third-party administrator pursuant to the underwriting authority granted to the agent or third-party administrator by an insurer.

5. If an insurer has paid benefits under the long-term care insurance policy or certificate, the benefit payments shall not be recovered by the insurer if such policy or certificate is rescinded.

6. In the event of death of the insured, this section shall not apply to the remaining death benefit of a life insurance policy that accelerates benefits for long-term care. In this situation, the remaining death benefits under such policies shall be governed by the contestability provisions otherwise applicable in the policy to life insurance benefits. In all other situations, this section shall apply to life insurance policies that accelerate benefits for long-term care.

376.1127. NONFORFEITURE BENEFIT OPTION REQUIRED FOR LONG-TERM CARE INSURANCE POLICIES, REQUIREMENTS OF OFFER—RULEMAKING AUTHORITY.— 1. Except as provided in subsection 2 of this section, a long-term care insurance policy shall not be delivered or issued for delivery in this state unless the policyholder or certificate holder has been offered the option of purchasing a policy or certificate including a nonforfeiture benefit. The offer of a nonforfeiture benefit may be in the form of a rider that is attached to the policy. If a policyholder or certificate holder declines the nonforfeiture benefit, the insurer shall provide a contingent benefit upon lapse that will be available for a specified period of time following a substantial increase in premium rates.

2. When a group long-term care insurance policy is issued, the offer required in subsection 1 of this section shall be made to the group policyholder; except that, if the policy is issued as a group long-term care insurance, as defined in section 376.951, other than to a continuing care retirement community or other similar entity, the offering shall be made to each proposed certificate holder.

3. The director shall promulgate rules specifying the type or types of nonforfeiture benefits to be offered as part of long-term care insurance policies and certificates, the standards for nonforfeiture benefits, and the rules regarding contingent benefit upon lapse, including a determination of the specified period of time during which a contingent benefit upon lapse will be available and the substantial premium rate increase that triggers a contingent benefit upon lapse as described in subsection 1 of this section.

376.1130. RULEMAKING AUTHORITY.— 1. The director shall promulgate reasonable rules to promote premium adequacy and to provide alternatives for the policyholder in the event of substantial rate increases, and to establish minimum standards for marketing practices, agent testing, penalties, and reporting practices for long-term care insurance.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in section 376.1121 to 376.1130 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

379.080. CAPITAL AND SURPLUS OF STOCK OR MUTUAL COMPANY, INVESTMENTS AUTHORIZED—VIOLATION, PENALTY.— 1. (1) The amount of the minimum capital required of a stock company to write the lines of business it proposes to transact or is transacting, or if the company is a mutual company an amount equal to the minimum capital required of a stock company transacting the same classes of business, shall be held in cash or invested in:

- (a) Treasury notes or bonds of the United States;
- (b) Bonds of the state of Missouri;
- (c) Bonds issued by any school district of the state of Missouri;
- (d) Bonds of any political subdivision of this state;

(2) The remainder of the capital, surplus or policyholders' surplus of these companies and their other assets may be invested, to the extent allowed by this or any other provision of law, in:

- (a) The investments authorized by subdivision (1) of subsection 1 of this section;
 - (b) Loans safely secured by personal property collateral worth, at its cash market value, not less than twenty percent in excess of the amount loaned thereon;
 - (c) Stocks, bonds or evidences of indebtedness issued by corporations organized under the laws of this state, or of the United States or of any other state;
 - (d) Bonds or other obligations issued by multinational development banks in which the United States is a member nation, including the African Development Bank;
 - (e) Bonds of any other state, or of any political subdivision of any other state;
 - (f) Mortgages or deeds of trust on unencumbered real estate in this or any other state worth not less than twenty percent in excess of the amount loaned thereon;
 - (g) If a company is authorized to do business in a foreign country or a possession of the United States or has outstanding insurance or reinsurance contracts on risks located in a foreign country or United States' possession, the company may invest the remainder of its capital and other assets in securities, cash or other investments payable in the currency of the foreign country or possession that are of substantially the same kinds and classes as those eligible for investments under this subsection, provided that such investments are made with the approval of the director. The aggregate amount of the foreign investments and cash shall not exceed the greater of one and one-half times the amount of the company's reserves and other obligations under the contracts or the amount that the company is required by law to invest in the foreign country or possession, and the aggregate amount of foreign investments and cash shall not exceed five percent of the company's admitted assets. All foreign investments shall be reported to the director from time to time as he directs;
 - (h) Loans evidenced by bonds, notes or other evidences of indebtedness guaranteed or insured, but only to the extent guaranteed or insured by the United States, any state, territory or possession of the United States, the District of Columbia, or by any agency, administration, authority or instrumentality of any of the political units enumerated;
 - (i) Shares of insured state-chartered building and loan associations and federal savings and loan associations, if such shares are insured by the Federal Deposit Insurance Corporation;
 - (j) Investments permitted by section 99.550, RSMo;
 - (k) Data processing equipment, automobiles, real estate and put or call options and financial futures contracts to the extent allowed by this section and any other provision of law;
 - (l) Investments in subsidiaries to the extent allowed by section 382.020, RSMo;
 - (m) Any other investments not described herein provided the aggregate amount of such investments shall not exceed eight percent of the admitted assets of the company;
 - (n) Any investments in an investment pool meeting the requirements of section 379.083 and any other provision of law relating to investments made by individual property and casualty companies; [and]
 - (o) Any other investments expressly authorized in writing by the director of the department of insurance; **and**
 - (p) **Any investment in a Missouri tax credit certificate or partnership interest which entitles the company to receive Missouri tax credits that may be used as a credit against the gross premium tax.**
2. Violation of any of the provisions of this section by an insurer is grounds for the suspension or revocation of its certificate of authority by the director.

Approved July 10, 2002

SB 1011 [SB 1011]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Removes references to used tires from the waste tire law.

AN ACT to repeal section 260.270, RSMo, and to enact in lieu thereof two new sections relating to waste tires, with penalty provisions.

SECTION

A. Enacting clause.

- 260.270. Waste tires, prohibited activities — penalties — site owners, no new waste tire sites permitted, when, exception — registration required, duty to inform department, contents — rules and regulations — permit fees — duties of department — inventory of processed waste tires not to exceed limitation — auto dismantler, limited storage of tires allowed — recovered rubber, use by transportation department, how.
1. Emission restrictions for coal-fired cyclone boilers — expiration date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 260.270, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 260.270 and 1, to read as follows:

260.270. WASTE TIRES, PROHIBITED ACTIVITIES — PENALTIES — SITE OWNERS, NO NEW WASTE TIRE SITES PERMITTED, WHEN, EXCEPTION — REGISTRATION REQUIRED, DUTY TO INFORM DEPARTMENT, CONTENTS — RULES AND REGULATIONS — PERMIT FEES — DUTIES OF DEPARTMENT — INVENTORY OF PROCESSED WASTE TIRES NOT TO EXCEED LIMITATION — AUTO DISMANTLER, LIMITED STORAGE OF TIRES ALLOWED — RECOVERED RUBBER, USE BY TRANSPORTATION DEPARTMENT, HOW. — 1. (1) It shall be unlawful for any person to haul for commercial profit, collect, process, or dispose of waste tires in the state except as provided in this section. This section shall not be construed to prohibit [used or] waste tires from being hauled to a lawfully operated facility in another state. Waste tires shall be collected at a waste tire site, waste tire processing facility, waste tire end-user facility, or a waste tire collection center. A violation of this subdivision shall be a class C misdemeanor for the first violation. A second and each subsequent violation shall be a class A misdemeanor. A third and each subsequent violation, in addition to other penalties authorized by law, may be punishable by a fine not to exceed five thousand dollars and restitution may be ordered by the court.

(2) A person shall not maintain a waste tire site unless the site is permitted by the department of natural resources for the proper and temporary storage of waste tires or the site is an integral part of the person's permitted waste tire processing facility or registered waste tire end-user facility. No new waste tire sites shall be permitted by the department after August 28, 1997, unless they are located at permitted waste tire processing facilities or registered waste tire end-user facilities. A person who maintained a waste tire site on or before August 28, 1997, shall not accept any quantity of additional waste tires at such site after August 28, 1997, unless the site is an integral part of the person's waste tire processing or end-user facility, or unless the person who maintains such site can verify that a quantity of waste tires at least equal to the number of additional waste tires received was shipped to a waste tire processing or end-user facility within thirty days after receipt of such additional waste tires.

(3) A person shall not operate a waste tire processing facility unless the facility is permitted by the department. A person shall not maintain a waste tire end-user facility unless the facility is registered by the department. The inventory of unprocessed waste tires on the premises of a waste tire processing or end-user facility shall not exceed the estimated inventory that can be processed or used in six months of normal and continuous operation. This estimate shall be based on the volume of tires processed or used by the facility in the last year or the

manufacturer's estimated capacity of the processing or end-user equipment. This estimate may be increased from time to time when new equipment is obtained by the owner of the facility, and shall be reduced if equipment used previously is removed from active use. The inventory of processed waste tires on the premises of a waste tire processing or end-user facility shall not exceed two times the permitted inventory of an equivalent volume of unprocessed waste tires.

(4) Any person selling new, used, or remanufactured tires at retail shall accept, at the point of transfer, in a quantity equal to the number of tires sold, [used or] waste tires from customers, if offered by such customers. Any person accepting [used or] waste tires may charge a reasonable fee reflecting the cost of proper management of any waste tires accepted; except that the fee shall not exceed two dollars per waste tire for any tire designed for a wheel of a diameter of sixteen inches or less and which tire is required to be accepted on a one-for-one basis at the time of a retail sale pursuant to this subdivision. All tire retailers or other businesses that generate waste tires shall use a waste tire hauler permitted by the department, except that businesses that generate or accept waste tires in the normal course of business may haul such waste tires without a permit, if such hauling is performed without any consideration and such business maintains records on the waste tires hauled as required by sections 260.270 to 260.276. Retailers shall not be liable for illegal disposal of waste tires after such waste tires are delivered to a waste tire hauler, waste tire collection center, waste tire site, waste tire processing facility or waste tire end-user facility if such entity is permitted by the department of natural resources.

(5) It shall be unlawful for any person to transport waste tires for consideration within the state without a permit.

(6) Waste tires may not be deposited in a landfill unless the tires have been cut, chipped or shredded.

2. Within six months after August 28, 1990, owners and operators of any waste tire site shall provide the department of natural resources with information concerning the site's location, size, and approximate number of waste tires that have been accumulated at the site and shall initiate steps to comply with sections 260.270 to 260.276.

3. The department of natural resources shall promulgate rules and regulations pertaining to collection, storage and processing and transportation of waste tires and such rules and regulations shall include:

(1) Methods of collection, storage and processing of waste tires. Such methods shall consider the general location of waste tires being stored with regard to property boundaries and buildings, pest control, accessibility by fire-fighting equipment, and other considerations as they relate to public health and safety;

(2) Procedures for permit application and permit fees for waste tire sites and commercial waste tire haulers, and by January 1, 1996, procedures for permitting of waste tire processing facilities and registration of waste tire end-user facilities. The only purpose of such registration shall be to provide information for the documentation of waste tire handling as described in subdivision (5) of this subsection, and registration shall not impose any additional requirements on the owner of a waste tire end-user facility;

(3) Requirements for performance bonds or other forms of financial assurance for waste tire sites;

(4) Exemptions from the requirements of sections 260.270 to 260.276; and

(5) By January 1, 1996, requirements for record-keeping procedures for retailers and other businesses that generate waste tires, waste tire haulers, waste tire collection centers, waste tire sites, waste tire processing facilities, and waste tire end-user facilities. Required record keeping shall include the source and number or weight of tires received and the destination and number of tires or weight of tires or tire pieces shipped or otherwise disposed of and such records shall be maintained for at least three years following the end of the calendar year of such activity. Detailed record keeping shall not be required where any charitable, fraternal, or other nonprofit organization conducts a program which results in the voluntary cleanup of land or water resources or the turning in of waste tires.

4. Permit fees for waste tire sites and commercial waste tire haulers shall be established by rule and shall not exceed the cost of administering sections 260.270 to 260.275. Permit fees shall be deposited into an appropriate subaccount of the solid waste management fund.

5. The department shall:

(1) Encourage the voluntary establishment of waste tire collection centers at retail tire selling businesses and waste tire processing facilities; and

(2) Investigate, locate and document existing sites where tires have been or currently are being accumulated, and initiate efforts to bring these sites into compliance with rules and regulations promulgated pursuant to the provisions of sections 260.270 to 260.276.

6. Any person licensed as an auto dismantler and salvage dealer under chapter 301, RSMo, may without further license, permit or payment of fee, store but shall not bury on his property, up to five hundred waste tires that have been chipped, cut or shredded, if such tires are only from vehicles acquired by him, and such tires are stored in accordance with the rules and regulations adopted by the department pursuant to this section. Any tire retailer or wholesaler may hold more than five hundred waste tires for a period not to exceed thirty days without being permitted as a waste tire site, if such tires are stored in a manner which protects human health and the environment pursuant to regulations adopted by the department.

7. Notwithstanding any other provisions of sections 260.270 to 260.276, a person who leases or owns real property may use waste tires for soil erosion abatement and drainage purposes in accordance with procedures approved by the department, or to secure covers over silage, hay, straw or agricultural products.

8. The department of transportation shall, beginning July 1, 1991, undertake, as part of its currently scheduled highway improvement projects, demonstration projects using recovered rubber from waste tires as surfacing material, structural material, subbase material and fill, consistent with standard engineering practices. The department shall evaluate the efficacy of using recovered rubber in highway improvements, and shall encourage the modification of road construction specifications, when possible, for the use of recovered rubber in highway improvement projects.

9. The director may request a prosecuting attorney to institute a prosecution for any violation of this section. In addition, the prosecutor of any county or circuit attorney of any city not within a county may, by information or indictment, institute a prosecution for any violation of this section.

SECTION 1. EMISSION RESTRICTIONS FOR COAL-FIRED CYCLONE BOILERS — EXPIRATION DATE. — Notwithstanding any provisions of law to the contrary, any utility unit, as defined in Title IV of the federal Clean Air Act, 42 U.S.C. Section 7851a, that uses coal-fired cyclone boilers which also burn tire derived fuel shall limit emissions of oxides of nitrogen to a rate no greater than eighty percent of the emission limit for cyclone-fired boilers in Title IV of the federal Clean Air Act and implementing regulations in 40 CFR Part 76, as amended. The provisions of this section shall expire on April 30, 2004, or upon the effective date of a revision to 10 CSR 10-6.350, whichever later occurs. The director of the department of natural resources shall notify the revisor of statutes of the effective date of a revision to 10 CSR 10-6.350.

Approved July 2, 2002

SB 1012 [HCS SB 1012]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Extends the period of payments from ten to twenty years on guaranteed energy cost savings contracts.

AN ACT to repeal section 8.231, RSMo, and to enact in lieu thereof one new section relating to guaranteed energy cost savings contracts.

SECTION

A. Enacting clause.

8.231. Guaranteed energy cost savings contracts, definitions — bids required, when — proposal request to include what — contract, to whom awarded, to contain certain guarantees.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 8.231, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 8.231, to read as follows:

8.231. GUARANTEED ENERGY COST SAVINGS CONTRACTS, DEFINITIONS — BIDS REQUIRED, WHEN — PROPOSAL REQUEST TO INCLUDE WHAT — CONTRACT, TO WHOM AWARDED, TO CONTAIN CERTAIN GUARANTEES. — 1. For purposes of this section, the following terms shall mean:

(1) "Energy cost savings measure", a training program or facility alteration designed to reduce energy consumption or operating costs, and may include one or more of the following:

(a) Insulation of the building structure or systems within the building;

(b) Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing reductions in glass area, or other window and door system modifications that reduce energy consumption;

(c) Automated or computerized energy control system;

(d) Heating, ventilating or air conditioning system modifications or replacements;

(e) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;

(f) Indoor air quality improvements to increase air quality that conforms to the applicable state or local building code requirements;

(g) Energy recovery systems;

(h) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(i) Any life safety measures that provide long-term operating cost reductions and are in compliance with state and local codes; or

(j) Building operation programs that reduce the operating costs;

(2) "Governmental unit", a state government agency, department, institution, college, university, technical school, legislative body or other establishment or official of the executive, judicial or legislative branches of this state authorized by law to enter into contracts, including all local political subdivisions such as counties, municipalities, public school districts or public service or special purpose districts;

(3) "Guaranteed energy cost savings contract", a contract for the implementation of one or more such measures. The contract shall provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time and the energy cost savings are guaranteed to the extent necessary to make payments for the systems. Guaranteed energy cost savings contracts shall be considered public works contracts to the extent that they provide for capital improvements to existing facilities;

(4) "Operational savings", expenses eliminated and future replacement expenditures avoided as a result of new equipment installed or services performed;

(5) "Qualified provider", a person or business experienced in the design, implementation and installation of energy cost savings measures;

(6) "Request for proposals" or "RFP", a negotiated procurement.

2. No governmental unit shall enter into a guaranteed energy cost savings contract until competitive proposals therefor have been solicited by the means most likely to reach those contractors interested in offering the required services, including but not limited to direct mail solicitation, electronic mail and public announcement on bulletin boards, physical or electronic. The request for proposal shall include the following:

(1) The name and address of the governmental unit;

(2) The name, address, title and phone number of a contact person;

(3) The date, time and place where proposals shall be received;

(4) The evaluation criteria for assessing the proposals; and

(5) Any other stipulations and clarifications the governmental unit may require.

3. The governmental unit shall award a contract to the qualified provider that provides the lowest and best proposal which meets the needs of the unit if it finds that the amount it would spend on the energy cost savings measures recommended in the proposal would not exceed the amount of energy or operational savings, or both, within a [ten-year] **fifteen-year** period from the date installation is complete, if the recommendations in the proposal are followed. The governmental unit shall have the right to reject any and all bids.

4. The guaranteed energy cost savings contract shall include a written guarantee of the qualified provider that either the energy or operational cost savings, or both, will meet or exceed the costs of the energy cost savings measures, adjusted for inflation, within [ten] **fifteen** years. The qualified provider shall reimburse the governmental unit for any shortfall of guaranteed energy cost savings on an annual basis. The guaranteed energy cost savings contract may provide for payments over a period of time, not to exceed [ten] **fifteen** years, subject to appropriation of funds therefor.

5. The governmental unit shall include in its annual budget and appropriations measures for each fiscal year any amounts payable under guaranteed energy savings contracts during that fiscal year.

6. A governmental unit may use designated funds for any guaranteed energy cost savings contract including purchases using installment payment contracts or lease purchase agreements, so long as that use is consistent with the purpose of the appropriation.

7. Notwithstanding any provision of this section to the contrary, a not-for-profit corporation incorporated pursuant to chapter 355, RSMo, and operating primarily for educational purposes in cooperation with public or private schools shall be exempt from the provisions of this section.

Approved June 13, 2002

SB 1015 [SCS SB 1015]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises long-term contract provisions at state parks and creates Endowment Fund for Arrow Rock State Park.

AN ACT to repeal sections 253.080 and 253.082, RSMo, relating to state parks, and to enact in lieu thereof four new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 253.080. Director of natural resources may construct and operate facilities and collect fees for usage — concession contracts — limitations — renewal of contracts.
- 253.082. Fund established for each facility head at state parks and scenic sites — purpose of fund — limitation, rules.
- 253.092. Arrow Rock state historic site endowment fund created, expenditure of moneys in fund — state treasurer to be custodian.
- 253.095. Interpretive or education services, agreements entered into with not-for-profit organizations for state parks, space provided — net proceeds retained by organization.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 253.080 and 253.082, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 253.080, 253.082, 253.092 and 253.095, to read as follows:

253.080. DIRECTOR OF NATURAL RESOURCES MAY CONSTRUCT AND OPERATE FACILITIES AND COLLECT FEES FOR USAGE — CONCESSION CONTRACTS — LIMITATIONS — RENEWAL OF CONTRACTS. — 1. The director of the department of natural resources may construct, establish and operate suitable public services, privileges, conveniences and facilities on any land, site or object under the department's jurisdiction and control, and may charge and collect reasonable fees for the use of the same. The director may charge reasonable fees for supplying services on state park areas. Any facilities so constructed under this provision shall only be done by appropriated funds.

2. The director may award by contract to any suitable person, persons, corporation or association the right to construct, establish and operate public services, privileges, conveniences and facilities on any land, site or object under the department's control for a period not to exceed twenty-five years with a renewal option, and may supervise and regulate any and all charges and fees of operations by private enterprise for supplying services and operating facilities on state park areas.

3. All contracts awarded under this section shall be entered into upon the basis of competitive sealed bids. A sworn financial statement shall accompany each bid, and all contracts shall be let by the director at a regular meeting after public notice of the time of the letting. All bids submitted prior to the opening of the meeting shall be considered. Advertisements for bids in daily or weekly newspapers shall be made by the director. The director shall accept the bid most favorable to the state from a responsible and reputable person but may, for good cause, reject any bid.

4. [No contract for a period of ten years or more or a renewal thereof for such period, as provided in subsection 2 of this section, shall be finally awarded until approved by the general assembly by concurrent resolution considered and adopted as other concurrent resolutions of the general assembly.] **The director shall not enter into a contract or a renewal for a contract as provided in subsection 2 of this section for a period in excess of ten years unless the director determines that the extended contract period is necessary to allow the contractor to make substantial capital or other improvements to the site subject to the contract and such improvements are of sufficient value to the state to necessitate the longer contract term.**

5. A good and sufficient bond conditioned upon the faithful performance of the contract and compliance with this law shall be required of all contractors, except that if the contractor states he is unable to provide a bond, the contractor shall place a cash reserve in an escrow account in an amount proportional to the volume of the contractor's business on the lands controlled by the department of natural resources.

6. Any person who contracts under this section with the state shall keep true and accurate records of his receipts and disbursements arising out of the performance of the contract and shall

permit the division of parks and recreation of the department of natural resources and the state director of revenue to audit them. The division of parks and recreation of the department of natural resources and the state director of revenue shall audit the receipts and disbursement of each contract once every two years and upon the expiration of the contract. For the purpose of subsection 5 of this section and this subsection, no contract shall be deemed to extend to operations or management in more than one state park.

253.082. FUND ESTABLISHED FOR EACH FACILITY HEAD AT STATE PARKS AND SCENIC SITES — PURPOSE OF FUND — LIMITATION, RULES. — Upon a request from the director of the department of natural resources, the commissioner of administration shall draw a warrant payable to the facility head of each of the state parks and historic sites in an amount to be specified by the director of the department of natural resources, but such amount shall not exceed the sum of **one thousand** five hundred dollars for each such facility. The sum so specified shall be placed in the hands of the facility head as a revolving fund to be used in the payment of the incidental expenses of the facility for which he has been appointed and for the refund of fees paid by the public. All expenditures shall be made in accordance with rules and regulations established by the commissioner of administration.

253.092. ARROW ROCK STATE HISTORIC SITE ENDOWMENT FUND CREATED, EXPENDITURE OF MONEYS IN FUND — STATE TREASURER TO BE CUSTODIAN. — **1.** There is hereby created in the state treasury the "Arrow Rock State Historic Site Endowment Fund". The fund shall be administered by the Missouri department of natural resources. All moneys, funds, or other assets acquired for purposes of this section shall be deposited with the state treasurer to the credit of the fund. All income, interest, rights, or rent earned through the operation of the fund shall also be credited to the fund. All other property, real and personal, acquired through any grant, gift, donation, devise, or bequest specified for the Arrow Rock state historic site endowment fund for purposes stated in this section shall also be deposited in the fund. The original bequest of Bill and Cora Lee Miller made in the amount of twenty-one thousand nine hundred sixty-five dollars and ninety-two cents to the state park earnings fund is hereby transferred into the Arrow Rock state historic site endowment fund.

2. The Arrow Rock state historic site endowment fund shall be used for the enhancement of Arrow Rock state historic site's public interpretive programs, and may be used by the Missouri department of natural resources for the preparation of museum exhibits, acquisition of artifacts, publication of information, payment of fees for exhibits or lectures, or other similar interpretive needs at Arrow Rock state historic site and for no other purpose.

3. The state treasurer shall be the custodian of all moneys, bonds, securities, or interests and rights therein deposited in the state treasury to the credit of the Arrow Rock state historic site endowment fund and shall invest the moneys in the fund in a manner as provided by law.

4. Until January 1, 2100, the Missouri department of natural resources may annually expend an amount equal to one-half of the interest earned by the Arrow Rock state historic site endowment fund in the immediately preceding fiscal year for the purposes stated in this section. Beginning January 1, 2100, and thereafter the Missouri department of natural resources may annually expend an amount equal to the interest earned by the Arrow Rock state historic site endowment fund in the immediately preceding fiscal year, for the purposes stated in this section.

5. Funds from the Arrow Rock state historic site endowment fund shall be expended only upon appropriation by the general assembly. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, funds appropriated, but not expended by the end of the fiscal year, shall revert to the Arrow Rock state historic site endowment fund.

253.095. INTERPRETIVE OR EDUCATION SERVICES, AGREEMENTS ENTERED INTO WITH NOT-FOR-PROFIT ORGANIZATIONS FOR STATE PARKS, SPACE PROVIDED — NET PROCEEDS RETAINED BY ORGANIZATION. — In order to further the interpretive or educational functions of Missouri state parks, the director of the Missouri department of natural resources is authorized to enter into agreements with private, not-for-profit organizations that are organized solely to provide cooperative, interpretive or educational services to any one Missouri state park. The director may provide state park facility space to such an organization under a cooperative agreement. Net proceeds received from the sale of publications or other materials provided by an organization pursuant to such an agreement entered into under this section shall be retained by the organization for use in the interpretive or educational services provided to such park that the organization is designated to serve.

Approved June 13, 2002

SB 1024 [SCS SB 1024]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires physicians to maintain adequate and complete medical records for their patients.

AN ACT to amend chapter 334, RSMo, by adding thereto one new section relating to medical records.

SECTION

A. Enacting clause.

334.097. Maintenance of medical records, requirements, contents — corrections, additions and changes.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 334, RSMo, is amended by adding thereto one new section, to be known as section 334.097, to read as follows:

334.097. MAINTENANCE OF MEDICAL RECORDS, REQUIREMENTS, CONTENTS — CORRECTIONS, ADDITIONS AND CHANGES. — 1. Physicians shall maintain an adequate and complete patient record for each patient and may maintain electronic records provided the record keeping format is capable of being printed for review by the state board of registration for the healing arts. An adequate and complete patient record shall include documentation of the following information:

- (1) Identification of the patient, including name, birthdate, address and telephone number;**
 - (2) The date or dates the patient was seen;**
 - (3) The current status of the patient, including the reason for the visit;**
 - (4) Observation of pertinent physical findings;**
 - (5) Assessment and clinical impression of diagnosis;**
 - (6) Plan for care and treatment, or additional consultations or diagnostic testing, if necessary. If treatment includes medication, the physician shall include in the patient record the medication and dosage of any medication prescribed, dispensed or administered;**
 - (7) Any informed consent for office procedures.**
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2. Patient records remaining under the care, custody and control of the licensee shall be maintained by the licensee of the board, or the licensee's designee, for a minimum of seven years from the date of when the last professional service was provided.

3. Any correction, addition or change in any patient record made more than forty-eight hours after the final entry is entered in the record and signed by the physician shall be clearly marked and identified as such, and the date, time and name of the person making the correction, addition or change shall be included, as well as the reason for the correction, addition or change.

4. A consultative report shall be considered an adequate medical record for a radiologist, pathologist or a consulting physician.

5. The board shall not initiate disciplinary action pursuant to subsection 2 of section 334.100 against a licensee solely based on a violation of this section. If the board initiates disciplinary action against the licensee for any reason other than a violation of this section, the board may allege violation of this section as an additional cause for discipline pursuant to subdivision (6) of subsection 2 of section 334.100.

6. The board shall not obtain a patient medical record without written authorization from the patient to obtain the medical record or the issuance of a subpoena for the patient medical record.

Approved July 2, 2002

SB 1026 [CCS HS SCS SB 1026]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows physicians to refer patients who have been newly diagnosed with cancer to a specialist for a second opinion.

AN ACT to repeal sections 194.220, 194.230, 376.1219, RSMo, and to enact in lieu thereof seven new sections relating to health insurance coverage for cancer treatment and prevention and certain inherited diseases.

SECTION

- A. Enacting clause.
- 194.220. Persons who may execute an anatomical gift.
- 194.230. Persons who may become donees — purposes for which anatomical gifts may be made.
- 376.429. Coverage for certain clinical trials for prevention, early detection and treatment of cancer, restrictions — definitions.
- 376.1219. PKU formula and low protein modified food products covered by insurance, when — exceptions.
- 376.1253. Second opinion right of newly diagnosed cancer patients, attending physician to inform — insurance coverage for such second opinions required, when.
- 376.1275. Coverage for human leukocyte antigen testing for bone marrow transplantation required, when — exceptions.
- 1. Effective date for statute allowing minors to donate organs.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 194.220, 194.230, 376.1219, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 194.220, 194.230, 376.429, 376.1219, 376.1253, 376.1275 and 1, to read as follows:

194.220. PERSONS WHO MAY EXECUTE AN ANATOMICAL GIFT. — 1. Any individual of sound mind who is at least eighteen years of age may give all or any part of his **or her** body for any purpose specified in section 194.230, the gift to take effect upon death. **Any individual who is a minor and at least sixteen years of age may effectuate a gift for any purpose specified in section 194.230, provided parental or guardian consent is deemed given. Parental or guardian consent shall be noted on the minor's donor card, application for the donor's instruction permit or driver's license, or other document of gift.** An express gift that is not revoked by the donor before death is irrevocable, and the donee shall be authorized to accept the gift without obtaining the consent of any other person.

2. Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual knowledge of a gift by the decedent [under] **pursuant to** subsection 1 of this section or actual notice of contrary indications by the decedent or of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in section 194.230:

(1) An attorney in fact under a durable power of attorney that expressly refers to making a gift of all or part of the principal's body [under] **pursuant to** the uniform anatomical gift act;

(2) The spouse;

(3) An adult son or daughter;

(4) Either parent;

(5) An adult brother or sister;

(6) A guardian of the person of the decedent at the time of his **or her** death;

(7) Any other person authorized or under obligation to dispose of the body.

3. If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection 2 of this section may make the gift after or immediately before death.

4. A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

5. The rights of the donee created by the gift are paramount to the rights of others except as provided by subsection 4 of section 194.270.

194.230. PERSONS WHO MAY BECOME DONEES — PURPOSES FOR WHICH ANATOMICAL GIFTS MAY BE MADE. — The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

(1) Any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(2) Any accredited medical or dental school, college or university or the state anatomical board for education, research, advancement of medical or dental science, or therapy; or

(3) Any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(4) Any specified individual for therapy or transplantation needed by [him] **such individual.**

376.429. COVERAGE FOR CERTAIN CLINICAL TRIALS FOR PREVENTION, EARLY DETECTION AND TREATMENT OF CANCER, RESTRICTIONS — DEFINITIONS. — **1. All health benefit plans, as defined in section 376.1350, that are delivered, issued for delivery, continued or renewed on or after August 28, 2002, and providing coverage to any resident of this state shall provide coverage for routine patient care costs as defined in subsection 6 of this section incurred as the result of phase III or IV of a clinical trial that is approved by an entity listed in subsection 4 of this section and is undertaken for the purposes of the prevention, early detection, or treatment of cancer.**

2. In the case of treatment under a clinical trial, the treating facility and personnel must have the expertise and training to provide the treatment and treat a sufficient volume of patients. There must be equal to or superior, noninvestigational treatment alternatives and the available clinical or preclinical data must provide a reasonable expectation that the treatment will be superior to the noninvestigational alternatives.

3. Coverage required by this section shall include coverage for routine patient care costs incurred for drugs and devices that have been approved for sale by the Food and Drug Administration (FDA), regardless of whether approved by the FDA for use in treating the patient's particular condition, including coverage for reasonable and medically necessary services needed to administer the drug or use the device under evaluation in the clinical trial.

4. Subsections 1 and 2 of this section requiring coverage for routine patient care costs shall apply to clinical trials that are approved or funded by one of the following entities:

- (1) One of the National Institutes of Health (NIH);
- (2) An NIH Cooperative Group or Center as defined in subsection 7 of this section;
- (3) The FDA in the form of an investigational new drug application;
- (4) The federal Departments of Veterans' Affairs or Defense;
- (5) An institutional review board in this state that has an appropriate assurance approved by the Department of Health and Human Services assuring compliance with and implementation of regulations for the protection of human subjects (45 CFR 46); or
- (6) A qualified research entity that meets the criteria for NIH Center support grant eligibility.

5. An entity seeking coverage for treatment, prevention, or early detection in a clinical trial approved by an institutional review board under subdivision (5) of subsection 4 of this section shall maintain and post electronically a list of the clinical trials meeting the requirements of subsections 2 and 3 of this section. This list shall include: the phase for which the clinical trial is approved; the entity approving the trial; whether the trial is for the treatment of cancer or other serious or life threatening disease, and if not cancer, the particular disease; and the number of participants in the trial. If the electronic posting is not practical, the entity seeking coverage shall periodically provide payers and providers in the state with a written list of trials providing the information required in this section.

6. As used in this section, the following terms shall mean:

(1) "Cooperative group", a formal network of facilities that collaborate on research projects and have an established NIH-approved Peer Review Program operating within the group, including the NCI Clinical Cooperative Group and the NCI Community Clinical Oncology Program;

(2) "Multiple project assurance contract", a contract between an institution and the federal Department of Health and Human Services (DHHS) that defines the relationship of the institution to the DHHS and sets out the responsibilities of the institution and the procedures that will be used by the institution to protect human subjects;

(3) "Routine patient care costs", shall include coverage for reasonable and medically necessary services needed to administer the drug or device under evaluation in the clinical trial. Routine patient care costs include all items and services that are otherwise generally available to a qualified individual that are provided in the clinical trial except:

- (a) The investigational item or service itself;
- (b) Items and services provided solely to satisfy data collection and analysis needs and that are not used in the direct clinical management of the patient; and
- (c) Items and services customarily provided by the research sponsors free of charge for any enrollee in the trial.

7. For the purpose of this section, providers participating in clinical trials shall obtain a patient's informed consent for participation on the clinical trial in a manner that is

consistent with current legal and ethical standards. Such documents shall be made available to the health insurer upon request.

8. The provisions of this section shall not apply to a policy, plan or contract paid under Title XVIII or Title XIX of the Social Security Act.

376.1219. PKU FORMULA AND LOW PROTEIN MODIFIED FOOD PRODUCTS COVERED BY INSURANCE, WHEN — EXCEPTIONS. — 1. Each policy issued by an entity offering individual and group health insurance which provides coverage on an expense-incurred basis, individual and group health service or indemnity type contracts issued by a nonprofit corporation, individual and group service contracts issued by a health maintenance organization, all self-insured group health arrangements to the extent not preempted by federal law, and all health care plans provided by managed health care delivery entities of any type or description, that are delivered, issued for delivery, continued or renewed in this state on or after September 1, 1997, shall provide coverage for formula **and low protein modified food products** recommended by a physician for the treatment of a patient with phenylketonuria or any inherited disease of amino and organic acids **who is covered under the policy, contract, or plan and who is less than six years of age.**

2. [The health care service required by this section shall not be subject to any greater deductible or co-payment than other similar health care services provided by the policy, contract or plan.] **For purposes of this section, "low protein modified food products" means foods that are specifically formulated to have less than one gram of protein per serving and are intended to be used under the direction of a physician for the dietary treatment of any inherited metabolic disease. Low protein modified food products do not include foods that are naturally low in protein.**

3. The coverage required by this section may be subject to the same deductible for similar health care services provided by the policy, contract, or plan as well as a reasonable coinsurance or copayment on the part of the insured, which shall not be greater than fifty percent of the cost of the formula and food products, and may be subject to an annual benefit maximum of not less than five thousand dollars per covered child. **Nothing in this section shall prohibit a carrier from using individual case management or from contracting with vendors of the formula and food products.**

[3.] 4. This section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, or any other supplemental policy as determined by the director of the department of insurance.

376.1253. SECOND OPINION RIGHT OF NEWLY DIAGNOSED CANCER PATIENTS, ATTENDING PHYSICIAN TO INFORM — INSURANCE COVERAGE FOR SUCH SECOND OPINIONS REQUIRED, WHEN. — 1. Each physician attending any patient with a newly diagnosed cancer shall inform the patient that the patient has the right to a referral for a second opinion by an appropriate board-certified specialist prior to any treatment. If no specialist in that specific cancer diagnosis area is in the provider network, a referral shall be made to a nonnetwork specialist in accordance with this section.

2. Each health carrier or health benefit plan, as defined in section 376.1350, that offers or issues health benefit plans which are delivered, issued for delivery, continued or renewed in this state on or after January 1, 2003, shall provide coverage for a second opinion rendered by a specialist in that specific cancer diagnosis area when a patient with a newly diagnosed cancer is referred to such specialist by his or her attending physician. Such coverage shall be subject to the same deductible and coinsurance conditions applied to other specialist referrals and all other terms and conditions applicable to other benefits, including the prior authorization and/or referral authorization requirements as specified in the applicable health insurance policy.

3. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policies of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance.

376.1275. COVERAGE FOR HUMAN LEUKOCYTE ANTIGEN TESTING FOR BONE MARROW TRANSPLANTATION REQUIRED, WHEN — EXCEPTIONS. — 1. Each health carrier or health benefit plan that offers or issues health benefit plans which are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2003, shall include coverage for their members for the cost for human leukocyte antigen testing, also referred to as histocompatibility locus antigen testing, for A, B, and DR antigens for utilization in bone marrow transplantation. The testing must be performed in a facility which is accredited by the American Association of Blood Banks or its successors, and is licensed under the Clinical Laboratory Improvement Act, 42 U.S.C. Section 263a, as amended, and is accredited by the American Association of Blood Banks or its successors, the College of American Pathologists, the American Society for Histocompatibility and Immunogenetics (ASHI) or any other national accrediting body with requirements that are substantially equivalent to or more stringent than those of the College of American Pathologists. At the time of testing, the person being tested must complete and sign an informed consent form which also authorizes the results of the test to be used for participation in the National Marrow Donor Program. The health benefit plan may limit each enrollee to one such testing per lifetime to be reimbursed at a cost of no greater than seventy-five dollars by the health carrier or health benefit plan.

2. For the purposes of this section, "health carrier" and "health benefit plan" shall have the same meaning as defined in section 376.1350.

3. The health care service required by this section shall not be subject to any greater deductible or copayment than other similar health care services provided by the health benefit plan.

4. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policies of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance.

SECTION 1. EFFECTIVE DATE FOR STATUTE ALLOWING MINORS TO DONATE ORGANS. — The provisions of subsection 1 of section 294.220, RSMo, relating to allowing a minor who is at least sixteen years of age to effectuate a gift for any purpose specified in section 194.230, RSMo, through the driver's license or instruction permit application process, shall be effective July 1, 2003.

Approved July 2, 2002

SB 1028 [SB 1028]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes procedures for establishment of a law enforcement district.

AN ACT to repeal section 67.1866, RSMo, and to enact in lieu thereof one new section relating to law enforcement districts.

SECTION

- A. Enacting clause.
67.1866. Vote required to create district — petition, contents — hearing on petition, when, notice required.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 67.1866, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 67.1866, to read as follows:

67.1866. VOTE REQUIRED TO CREATE DISTRICT — PETITION, CONTENTS — HEARING ON PETITION, WHEN, NOTICE REQUIRED. — 1. Whenever the creation of a district is desired, ten percent of the registered voters within the proposed district may file a petition requesting the creation of a district. The petition shall be filed in the circuit court of the county in which the proposed district is located.

2. The proposed district area shall be contiguous and may contain any portion of one or more municipalities.

3. The petition shall set forth:

(1) The name and address of each owner of real property located within the proposed district or who is a registered voter resident within the proposed district;

(2) A specific description of the proposed district boundaries including a map illustrating such boundaries;

(3) A general description of the purpose or purposes for which the district is being formed; and

(4) The name of the proposed district.

4. [In the event any owner of real property within the proposed district who is named in the petition or any legal voter resident within the district shall not join in the petition or file an entry of appearance and waiver of service of process in the case, a copy of the petition shall be served upon said owner or legal voter in the manner provided by supreme court rule for the service of petitions generally. Any objections to the petition shall be raised by answer within the time provided by supreme court rule for the filing of an answer to a petition.] **The circuit clerk of the county in which the petition is filed pursuant to this section shall present the petition to the judge, who shall thereupon set the petition for hearing not less than thirty days nor more than forty days after the filing. The judge shall cause notice of the time and place of the hearing to be given, by publication on three separate days in one or more newspapers having a general circulation within the county, with the third and final publication to occur not less than twenty days prior to the date set for the hearing. The notice shall recite the information required pursuant to subsection 3 of this section. The costs of printing and publication of the notice shall be paid as required pursuant to section 67.1870.**

Approved July 3, 2002

SB 1039 [HS HCS SB 1039]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises the composition and selection of the Kansas City housing commissioners.

AN ACT to repeal sections 99.050 and 99.134, RSMo, and to enact in lieu thereof two new sections relating to municipal housing authority commissioners.

SECTION

A. Enacting clause.

99.050. Commissioners — appointment — qualifications — term — compensation.

99.134. Commissioners of housing authority — membership — terms (Kansas City).

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 99.050 and 99.134, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 99.050 and 99.134, to read as follows:

99.050. COMMISSIONERS — APPOINTMENT — QUALIFICATIONS — TERM — COMPENSATION. — When the governing body of a city adopts a resolution or other declaration as aforesaid, it shall promptly notify the mayor of such adoption. Upon receiving such notice, the mayor shall appoint five persons who shall be taxpayers who have resided in said city for [five years] **one year** prior to such appointment as commissioners of the authority created for said city. When the governing body of a county adopts a resolution or other declaration as aforesaid, said body shall appoint five persons as commissioners of the authority created for said county. Three of the commissioners who are first appointed shall be designated to serve for terms of one, two, and three years, respectively, from the date of their appointment, and two shall be designated to serve for terms of four years from the date of their appointment. Thereafter commissioners shall be appointed as aforesaid for a term of office of four years except that all vacancies shall be filled for the unexpired term. No commissioner of an authority may be an officer or employee of the city or county for which the authority is created. A commissioner shall hold office until his successor has been appointed and has qualified, unless sooner removed according to sections 99.010 to 99.230. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services for the authority, in any capacity, but he shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. The powers of each authority shall be vested in the commissioners thereof in office from time to time. One more than one-half of all commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of a quorum, unless in any case the bylaws of the authority shall require a larger number. The mayor (or in the case of an authority for a county, the governing body of the county) shall designate which of the commissioners shall be the first chairman and he shall serve in the capacity of chairman until the expiration of his term of office as commissioner. When the office of the chairman of the authority thereafter becomes vacant, the authority shall select a chairman from among its commissioners. An authority shall select from among its commissioners a vice chairman, and it may employ a secretary (who shall be executive director), technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the city or the county or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

99.134. COMMISSIONERS OF HOUSING AUTHORITY — MEMBERSHIP — TERMS (KANSAS CITY). — [Beginning April 1, 1991, the provisions of this section shall apply to housing authorities of any city with a population of more than three hundred fifty thousand inhabitants

which is located in more than one county. The authority shall consist of seven commissioners, appointed by the mayor of the city, with the advice and consent of the city council. One commissioner shall be appointed from each city council district and the seventh commissioner shall be a tenant of any housing project owned or operated by the housing authority. The tenant commissioner shall serve for three years, but only if he remains a tenant of any housing project owned or operated by the authority. Notwithstanding the provisions of this chapter to the contrary, a new authority shall be established under this section. The commissioners of the authority in office on April 1, 1991, shall be deemed members of the new authority and shall serve the remaining portion of their terms. The new members of the authority which bring the total number of members to seven shall serve for four years. Upon the completion of the term of any commissioner, except the tenant commissioner, his replacement shall be appointed for a period of four years. The mayor shall make appointments within ninety days of the vacancy occurring. If no appointment has been made within ninety days by the mayor, the vacancy shall be filled by a majority of the city council present and voting at a regular meeting.] **This section shall apply to housing authorities of any home rule city with more than four hundred thousand inhabitants and located in more than one county. The provisions of this section shall apply to such housing authorities and the following provisions shall govern the composition of the housing authority and the selection of the members thereof:**

(1) There shall be seven members of the housing authority commission, six shall be appointed and one shall be elected by the tenants of the housing authority;

(2) The appointive members of the housing authority commission shall be nominated by a nominating committee and appointed by the mayor. The nominating committee shall consist of five members, consisting of two disinterested persons selected by the jurisdiction wide resident organization of which one must be a public housing resident and the other a person receiving Section 8 housing assistance, the remaining three members of the nominating committee shall be selected by the housing authority commissioners. At least one appointive member must be a resident in good standing receiving Section 8 housing assistance and participating in a self-sufficiency program or successfully completed a self-sufficiency program, and at least one appointive member must be an owner of rental property located within the limits of the city who is a resident of such city, but shall not own any property containing public housing;

(3) The election of the tenant commissioner shall be conducted by the jurisdiction wide resident organization and overseen by an independent third party. The election shall be by written ballot and each tenant of the housing authority who has attained the age of eighteen years shall be entitled to one vote. In addition to the qualifications required for the office by the provisions of section 99.010 to 99.230, the elected member of the commission shall be a tenant in good standing;

(4) Commissioners of the housing authority required by this section to be tenants of the housing authority or tenants receiving Section 8 housing assistance shall not be employed in any capacity by the housing authority and shall not be construed, because of such tenancy or receipt of housing assistance, to have direct or indirect interest in any housing authority project or in any property included or planned to be included in any project, or in proposed contract for materials or services within the meaning of section 99.060;

(5) Each elective commissioner shall serve a term of four years. Of the six appointive members of the commissioners first appointed pursuant to this section, two shall serve a term of one year, two commissioners shall serve a term of two years, and two commissioners shall serve a term of three years. Thereafter all commissioners shall serve a term of office of four years except that all vacancies shall be filled for the unexpired term;

(6) The commissioners shall select from among its members a chairperson and a vice chairperson;

(7) Each commissioner shall receive a stipend of two hundred dollars per month for his or her services to the housing authority in any capacity in addition to reimbursement for expenses incurred for special travel or conference expenses incurred in the discharge of the commissioner's duties. The board of commissioners shall have the power to adjust the stipend amount annually to reflect changes in the Consumer Price Index or similar prudent and object pre-escalator method;

(8) A quorum shall consist of at least four commissioners; and

(9) All commissioners shall be residents of the jurisdiction of the housing authority.

Approved June 27, 2002

SB 1041 [SB 1041]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes conveyance of state property in Camden, Cole, and Phelps counties.

AN ACT to authorize the conveyance of property owned by the state.

SECTION

1. Conveyance of property by department of natural resources to Lawrence and Helen Taylor.
2. Conveyance of Cole County property to the department of natural resources.
3. Conveyance of Cole County property to the general services administration or the Missouri development finance board.
4. Conveyance of property by the state to the Gingerbread House, Inc.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. CONVEYANCE OF PROPERTY BY DEPARTMENT OF NATURAL RESOURCES TO LAWRENCE AND HELEN TAYLOR. — 1. The department of natural resources is hereby authorized to convey by warranty deed or other appropriate instrument, as the board determines appropriate, its right, title and interest in the real estate to Lawrence Leroy and Helen Delores Taylor. The property to be conveyed is more particularly described as follows:

A tract of land in the County of Camden and the State of Missouri, lying in part of the northwest quarter of Section 7, Township 37 North, Range 16 West of the Fifth Principal Meridian, being part of a tract of land conveyed to the Missouri Department of Natural Resources by instrument filed for record in Deed Book 463 at page 373 of the Camden County land records, more particularly described as follows:

Commencing at a standard DNR aluminum monument set to mark the west quarter corner of said Section 7 as located and described in MoDNR document #600-68292 and document #750-26934; thence along the east-west centerline of said Section 7, south 87 degrees 49 minutes 40 seconds east, a distance of 1169.9 feet to a set 5/8 inch rebar, the TRUE POINT OF BEGINNING of the herein described tract; thence continuing on said east-west centerline, south 87 degrees 49 minutes 40 seconds east, a distance of 1305.2 feet to the intersection of said east-west centerline and the westerly line of a tract of land conveyed to Ronald E. Adamson by instrument recorded in Deed Book 480 at page 911 of said land records, said intersection marked by a set 5/8 inch rebar from which a found 3/8 inch smooth round rod bears north 11 degrees 08 minutes 30 seconds west, a distance

of 50.3 feet and a found ½ inch rebar bears north 11 degrees 08 minutes 30 seconds west, a distance of 88.75 feet; thence along said Adamson line north 11 degrees 08 minutes 30 seconds west, a distance of 282.25 feet to a found 3/8 inch smooth round rod marking the northwest corner of said Adamson tract; thence along the northerly line of said Adamson tract, north 72 degrees 14 minutes 15 seconds east, a distance of 227.5 feet to a found 3/8 inch smooth round rod in gravel road at the westerly line of a tract of land conveyed to L & L Construction Co. by instrument recorded in Deed Book 214 at page 145 of said land records, from which rod a found 3/8 inch smooth round rod bears north 02 degrees 11 minutes 20 seconds east, a distance of 83.60 feet; thence along said L & L line, north 23 degrees 36 minutes 45 seconds west, a distance of 30.15 feet to the southeast or most easterly corner of a tract of land conveyed to Donald and Debora Lucas by instrument recorded in Deed Book 295 at page 149 of said land records, marked by a set 5/8 inch rebar in gravel road; thence along the southerly line of said Lucas tract, south 72 degrees 14 minutes 15 seconds west, a distance of 246.17 feet to a found 3/8 inch smooth round rod at the southwesterly or most southern corner of said Lucas tract; thence along the westerly line of said Lucas tract, north 22 degrees 39 minutes 45 seconds west, a distance of 209.9 feet to a found 3/8 inch smooth round rod at the northwest or most western corner of said Lucas tract and the southerly line of a tract of land conveyed to Kenneth Gannon by instrument recorded in Deed Book 449 at page 848 of said land records; thence along the southerly line of said Gannon tract, south 72 degrees 14 minutes 15 seconds west, a distance of 90.52 feet to a found ½ inch rebar with red plastic cap marked "D. SNELLING LS2289" at the southwest or most southern corner of said Gannon tract; thence along the westerly line of said Gannon tract, north 20 degrees 44 minutes 30 seconds west, a distance of 172.00 feet to a set 5/8 inch rebar; thence departing said Gannon line, south 59 degrees 50 minutes 30 seconds west, a distance of 1147.15 feet to the true point of beginning.

2. In consideration for the conveyance in subsection 1 of section 1 of this act, the Missouri department of natural resources is hereby authorized to receive by warranty deed or other appropriate instrument, as the board determines appropriate, its right, title and interest in the real estate from Lawrence Leroy and Helen Delores Taylor. The property to be conveyed is more particularly described as follows:

A tract of land in the County of Camden and the State of Missouri, lying in part of the southwest quarter of Section 7, Township 37 North, Range 16 West of the Fifth Principal Meridian, being part of a tract of land conveyed to Lawrence Leroy and Helen Delores Taylor by instrument filed for record in Deed Book 419 at page 464 of the Camden County land records, more particularly described as follows:

Commencing at a standard DNR aluminum monument set to mark the west quarter corner of said Section 7 as located and described in MoDNR document #600-68292 and document #750-26934, the TRUE POINT OF BEGINNING of the herein described tract; thence along the east-west centerline of said Section 7, south 87 degrees 49 minutes 40 seconds east, a distance of 1169.9 feet to a set 5/8 inch rebar; thence departing said east-west centerline, south 59 degrees 50 minutes 30 seconds west, a distance of 1382.4 feet to a 5/8 inch rebar set on the Range line between Ranges 16 and 17 West, from which a found 5/8 inch rebar with melted red plastic cap bears south 02 degrees 00 minutes 28 seconds west, a distance of 582.50 feet; thence along said Range line, north 02 degrees 00 minutes 28 seconds east, a distance of 626.70 feet to the east quarter corner of Section 12, Township 37 North, Range 17 West, marked by a standard DNR aluminum monument described in MoDNR document #600-59541; thence continuing along said Range line, north 02 degrees 09 minutes 04 seconds east, a distance of 112.65 feet to the true point of beginning, containing 9.9 acres, more or less.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 2. CONVEYANCE OF COLE COUNTY PROPERTY TO THE DEPARTMENT OF NATURAL RESOURCES. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in the County of Cole to the department of natural resources. The property to be conveyed is more particularly described as follows:

Part of the East Half of the Southwest Quarter, and part of the West Half of the Southeast of Quarter of Section 13, Township 45 North, Range 13 West, Cole County, Missouri, more particularly described as follows:

BEGINNING at the northwest corner of the East Half of the Southwest Quarter of the aforesaid Section 13, Township 45 North, Range 13 West; thence S88 18'32"E, along the Quarter Section Line, 1328.87 feet to the Center of said Section 13; thence continuing S88 18'32"E, along the Quarter Section Line, 277.59 feet to a point intersecting the southerly line of the 100 foot wide Missouri Pacific Railroad right-of-way; thence S49 23'55"E, along the southerly line of said Railroad Right-of-way, 191.44 feet to the center of an existing field road; thence along the center of said field road the following courses: Southwesterly, on a curve to the left, having a radius of 270.00 feet, an arc distance of 86.87 feet, (the chord of said curve being S26 47'07"W, 86.50 feet); thence S17 34'03"W, 80.68 feet; thence Southerly, on a curve to the left, having a radius of 125.00 feet, an arc distance of 142.57 feet, (the chord of said curve being S15 06'27"E, 134.97 feet); thence S47 46'57"E, 326.12 feet; thence S49 41'43"E, 399.15 feet; thence Southerly, on a curve to the right, having a radius of 130.00 feet, an arc distance of 143.08 feet, (the chord of said curve being S18 09'54"E, 135.97 feet); thence S13 21'56"W, 534.20 feet to a point on the northerly line of the Missouri State Highway 179 Right-of-way; thence leaving the center of the aforesaid field road, along the northerly line of said Missouri State Highway 179 Right-of-way, the following courses: Westerly, on a curve to the left, having a radius of 995.40 feet, an arc distance of 182.61 feet, (the chord of said curve being, N86 14'50"W, 182.36 feet); thence S88 45'26"W, 95.47 feet; thence Westerly, on a curve to the left, having a radius of 1000.40 feet, an arc distance of 104.71 feet, (the chord of said curve being S80 01'19"W, 104.66 feet); thence S71 17'13"W, 95.47 feet; thence S66 08'20"W, 291.10 feet; thence S66 08'20"W, 291.10 feet; thence Westerly, on a curve to the right, having a radius of 915.40 feet, an arc distance of 997.80 feet (the chord of said curve being N82 38'05"W, 949.13 feet); thence N51 24'30"W, 336.30 feet; thence N38 35'30"E, 45.00 feet; thence N62 43'06"W, 229.46 feet; thence N51 24'30"W, 12.26 feet to a point intersecting the west line of the East Half of the Southwest Quarter of the aforesaid Section 13, Township 45 North, Range 13 West; thence leaving said Missouri State Highway 179 Right-of-way line, N1 01 0'35"E, along the Quarter Quarter Section Line, 1294.07 feet to the POINT OF BEGINNING.

Containing 77.28 Acres.

2. The conveyance is subject to an easement in favor of the state of Missouri for ingress and egress to the property retained by the state of Missouri.

3. The consideration for the conveyance shall be one dollar.

4. The attorney general shall approve the form of the instrument of conveyance.

SECTION 3. CONVEYANCE OF COLE COUNTY PROPERTY TO THE GENERAL SERVICES ADMINISTRATION OR THE MISSOURI DEVELOPMENT FINANCE BOARD. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in the County of Cole to the General Services Administration or the Missouri development finance board. The property to be conveyed is more particularly described as follows:

All of Inlots 187 and 188; All of Inlots 191 thru 200 inclusive; All of Inlots 225 thru 229; All that part of the Hough Street Right-of-way (previously vacated by Jefferson City Ordinance No. 3256); All that part of the Marshall Street Right-of-way lying north of the

northerly line of State Street and south of the Missouri Pacific Railroad; All that part of the Lafayette Street Right-of-way (previously vacated by Jefferson City ordinance no. 3256); All that part of a 20 foot wide public alley lying between Marshall Street and Lafayette Street (previously vacated by Jefferson City Ordinance No. 3256); All that part of a 20 foot wide public alley, lying east of the easterly line of Inlots 185 and 190 and west of the westerly line of the Marshall Street Right-of-way; any part of Fractional Section 8, lying south of the Missouri Pacific Railroad and north of Inlots 187 & 188, any part of Fractional Section 8, lying south of the Missouri Pacific Railroad and north of Inlots 225 thru 229 inclusive; according to the plat of the City of Jefferson, Missouri and according to the Government Land Office Plat of Township 44 North, Range 11 West, dated December 6, 1861. All of the aforesaid lies within Fractional Section 8 of said Township 44 North, Range 11 West, and within the Corporate Limits of the City of Jefferson, Cole County, Missouri, more particularly described as follows:

BEGINNING at the southwesterly corner of Inlot 191; thence N42°18'12"E, along the westerly line of said Inlot 191 and along the northerly extension thereof, 218.46 feet to a point intersecting the northerly line of a 20 foot wide alley at the southwest corner of Inlot 186; thence S47°41'48"E, along the northerly line of said alley, 69.58 feet to the southwesterly corner of Inlot 187; thence N42°18'12"E, along the westerly line of said Inlot 187 and the northerly extension thereof, 259.20 feet; thence S68°13'57"E, 766.53 feet to a point intersecting the easterly line of the aforesaid vacated Lafayette Street Right-of-way; thence S42°15'04"W, along the easterly line of said vacated Lafayette Street Right-of-way, 746.58 feet to a point intersecting the northerly line of the State Street Right-of-way (formerly Water Street); thence N47°42'13"W, along the northerly line of said State Street Right-of-way, 539.62 feet to a point in the center of the Marshall Street Right-of-way; thence N47°40'29"W, along the northerly line of said State Street Right-of-way, 248.46 feet to the POINT OF BEGINNING.

2. Consideration for the conveyance shall be the transfer of property of like value to the state of Missouri.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 4. CONVEYANCE OF PROPERTY BY THE STATE TO THE GINGERBREAD HOUSE, INC. — 1. In the event that a tract of real property described in this subsection is conveyed to the state, the governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in such property to the Gingerbread House, Inc. The property to be conveyed is more particularly described as follows:

A fractional part of Lot 119 of the Railroad Addition in Rolla, Missouri, and more particularly described as follows: Commencing at the NW corner of said Lot 119, thence S. 0°43' W., 30.0 feet to the S. line of Gale Drive, thence N. 88°53' E., 311.92 feet along said S. street line, thence S. 0°52' W., 325.0 feet, thence N. 88°53' E., 119.10 feet to the true point of beginning of the tract hereinafter described; thence N. 88°53' E., 188.90 feet to the W. line of Fairgrounds Road, thence S. 0°52' W., 242.0 feet along said W. line of Fairgrounds Road, thence S. 89°07' W., 188.87 feet, thence N. 0°52' E., 241.19 feet to the true point of beginning. Above tract contains 1.10 acres ±. This survey is recorded in Phelps County Surveyor's Records in Book "I" at Page S-6038, dated August 30th, A.D. 1982, made by R. L. Elgin & Associates, Engineers & Surveyors, Rolla, Missouri.

(Note: This excepted parcel of 1.10 acres is the same parcel now occupied by Gingerbread House, Inc., and is also the same parcel of land heretofore mortgaged by said Gingerbread House, Inc., as 1st party or grantor or trustor to Milton J. Schnebelen as 2nd party or Trustee for COMMERCE BANK OF BONNE TERRE as 3rd party or beneficiary or cestui que trust, via that certain Deed of Trust dated Sept. 7th, 1982, filed Sept. 10, 1982, in Trust Deed Book 239 at Page 63 of Phelps County trust deed records.)

2. The attorney general shall approve the form of the instrument of conveyance.

Approved June 21, 2002

SB 1048 [SB 1048]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Makes a technical correction to the statute creating the Spinal Cord Injury Fund.

AN ACT to repeal section 304.027, RSMo, and to enact in lieu thereof one new section relating to the spinal cord injury fund.

SECTION

A. Enacting clause.

304.027. Spinal cord injury fund created, uses — surcharge imposed, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 304.027, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.027, to read as follows:

304.027. SPINAL CORD INJURY FUND CREATED, USES — SURCHARGE IMPOSED, WHEN.

— 1. There is hereby created in the state treasury for use by the board of curators of the University of Missouri a fund to be known as the "Spinal Cord Injury Fund". All judgments collected pursuant to this section, appropriations of the general assembly, federal grants, private donations and any other moneys designated for the spinal cord injury fund established pursuant to [sections 302.133 to 302.138, RSMo] **this section**, shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the board of curators, be received and expended by the board for the purpose of funding research projects that promote an advancement of knowledge in the area of spinal cord injury. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the spinal cord injury fund at the end of any biennium shall not be transferred to the general revenue fund.

2. Any person who is convicted of an intoxication-related offense, as defined by section 577.023, RSMo, shall have a judgment entered against the defendant in favor of the spinal cord injury fund, in the amount of twenty-five dollars.

3. The judgments collected pursuant to this section shall be paid into the state treasury to the credit of the spinal cord injury fund created in this section. Any court clerk receiving funds pursuant to judgments entered pursuant to this section shall collect and disburse such amounts as provided in sections 488.010 to 488.020, RSMo.

Approved July 10, 2002

SB 1071 [SCS SB 1071]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Weight and measures.

AN ACT to repeal sections 413.005, 413.015, 413.055, 413.065, 413.075, 413.085, 413.115, 413.125, 413.135, 413.145, 413.155, 413.165, 413.225, 413.227 and 413.229, RSMo, relating to weights and measures, and to enact in lieu thereof fifteen new sections relating to the same subject, with penalty provisions.

SECTION

- A. Enacting clause.
- 413.005. Definitions.
- 413.015. Division of weights and measures — established — director and staff, expenses, compensation — powers and duties of division.
- 413.055. Specifications, tolerance and other technical requirements adopted by division.
- 413.065. Director, duties — rules, procedure.
- 413.075. Powers of director.
- 413.085. City- and county-appointed weights and measures officials, powers and duties, exception — current power of director.
- 413.115. Deceptive business practices, prohibited.
- 413.125. Bulk sales, delivery ticket required, when, content.
- 413.135. Prohibited actions.
- 413.145. Packages for sale, certain information on package required.
- 413.155. Packages containing random weights to state price per single unit of weight.
- 413.165. Advertising packaged commodity stating retail price, quantity also required on package — dual declaration, requirement.
- 413.225. Fees — rates — due at time of registration, inspection or calibration, failure to pay fee, effect, penalty.
- 413.227. Violations, procedure, notices, contents — hearing, rights of violator — penalty — appeal — deposit of penalty.
- 413.229. Criminal penalties for violations.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 413.005, 413.015, 413.055, 413.065, 413.075, 413.085, 413.115, 413.125, 413.135, 413.145, 413.155, 413.165, 413.225, 413.227 and 413.229, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 413.005, 413.015, 413.055, 413.065, 413.075, 413.085, 413.115, 413.125, 413.135, 413.145, 413.155, 413.165, 413.225, 413.227 and 413.229, to read as follows:

413.005. DEFINITIONS. — As used in sections 413.005 to 413.229, unless the context clearly indicates otherwise, the following words and terms mean:

(1) "Accurate", any piece of equipment that conforms to the standard within applicable tolerance and other performance requirements;

[(1)] (2) "Commercial [device] weighing and measuring equipment", [any weighing or measuring device] devices commercially used in [commerce] or employed to establish the size, quantity, extent, area or measurement of quantities, things produced or articles for distribution or consumption, purchased, offered or submitted for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure, and includes any accessory attached to or used in connection with a commercial weighing or measuring device when such accessory is so designed or installed that its operation affects [or may affect] the accuracy of the weighing or measuring device;

[(2)] (3) "Correct", equipment that[, in addition to being] is accurate[, a device] and it meets all applicable specifications[, performance and installation] and requirements;

[(3)] (4) "Director", the director of the department of agriculture, or his or her designated representative;

[(4)] (5) "Division", the division of weights and measures of the department of agriculture;

[(5)] (6) "Net mass" or "net weight", the weight of a commodity excluding any materials, substances, or items not considered to be part of the commodity, which include but are not limited to containers, conveyances, bags, wrappers, packaging material, labels, individual piece coverings, decorative accompaniments and coupons and packaging materials;

[(6)] (7) "Package", any commodity **of standard package or random package** enclosed in a container or wrapped in any manner in advance of wholesale or retail sales, or whose weight or measure has been determined in advance of wholesale or retail sale, and an individual item or lot of any commodity on which there is marked a selling price based on an established price per unit of weight or of measure, **shall be considered a package (or packages)**;

[(7)] (8) "Person", **includes** individuals, partnerships, corporations, companies, societies, and associations;

[(8)] (9) "Point-of-sale system", [a point-of-sale system includes cash registers or devices and systems capable of recovering stored information related to the price of individual retail items] **an assembly of elements including a weighing or measuring element, indicating element, and a recording element that may be equipped with a "scanner" used to complete a direct sales transaction**;

[(9)] (10) "Primary standards", the physical standards of the state [which] **that** serve as the legal reference from which all other standards [of] **for** weights and measures are derived;

[(10)] (11) "Random [package] **weight packages**", a package that is one of a lot, shipment or delivery of packages of the same consumer commodity with no fixed pattern of [weight or measure] **weights**;

[(11)] (12) "Sale from bulk", the sale of commodities when the quantity is determined at the time of sale;

[(12)] (13) "Secondary standards", the physical standards used in the enforcement of weights and measures laws and regulations which are traceable to the primary standards through comparisons, using acceptable laboratory procedures;

[(13)] (14) "Standard package", a package that is one of a lot, shipment or delivery of packages of the same commodity with identical net contents declarations;

[(14)] (15) "Weight", as used in connection with any commodity[,], **or service** means net weight. Where the label declares that the product is sold by drained weight, the term means net drained weight;

[(15)] (16) "Weights and measures", instruments and devices of every kind, used for weighing[,], **and** measuring [and counting], and any appliance, accessory or object used with or associated with the use of all such instruments and devices.

413.015. DIVISION OF WEIGHTS AND MEASURES — ESTABLISHED — DIRECTOR AND STAFF, EXPENSES, COMPENSATION — POWERS AND DUTIES OF DIVISION. — 1. There is established a "Division of Weights and Measures" within the department of agriculture. There shall be a director of weights and measures and such other necessary technical, supervisory and clerical personnel as may be required.

2. The compensation of all employees, the cost of all necessary equipment and supplies, travel and contingent expenses for the division shall be paid from appropriations for these purposes, made by the general assembly.

3. The division is charged with, but not limited to, performing the following functions on behalf of the citizens of the state:

(1) Assuring that **weights and measures in** commercial [devices] **service** within the state are suitable for their intended use, properly installed, accurate and are so maintained by their owner or user;

(2) Preventing unfair or deceptive dealing by weight or measure in any commodity or service advertised, **packaged**, sold or purchased within this state;

(3) Making available to all users of physical standards or weighing and measuring equipment the precision calibration and **related** metrological certification capabilities of the weights and measures facilities of the division;

(4) Promoting uniformity, to the extent practicable and desirable, between [the] **weights and measures** requirements of this state and those of other states and federal agencies; and

(5) Encouraging and promoting **desirable** economic and agricultural growth while protecting the public through the adoption by rule of weights and measures requirements as necessary to assure equity among buyers and sellers.

413.055. SPECIFICATIONS, TOLERANCE AND OTHER TECHNICAL REQUIREMENTS ADOPTED BY DIVISION. — The specification, tolerances, and other technical requirements for commercial weighing and measuring devices as adopted by the National Conference on Weights and Measures and published in the most recent edition of National Institute of Standards and Technology Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices", **and supplement thereto or revision thereof**, shall apply to commercial weighing and measuring devices in this state, except insofar as modified or rejected by state regulations.

413.065. DIRECTOR, DUTIES — RULES, PROCEDURE. — [1.] The director shall:

(1) Maintain the traceability of the state standards to the **national standards in the possession of the National Institute of Standards and Technology**;

(2) Enforce the provisions of sections 413.005 to 413.229;

(3) Promulgate reasonable regulations for the enforcement of sections 413.005 to 413.229 in accordance with this section and chapter 536, RSMo;

(4) Prescribe, by regulation, requirements for packaging and labeling and method of sale of commodities, adopt the Uniform Regulation for National Type Evaluation (NTEP) as published by the National Institute of Standards and Technology (NIST) in Handbook 130, **and supplements thereto or revisions thereof** [pertaining to weighing and measuring devices], and may establish standards of weight, measure or count, requirements for unit pricing, open dating information, and reasonable standards of fill for any packaged commodity;

(5) Test [the secondary] **annually the standards for weights and measures** used by any city or county within this state, approve the same when found to be correct, reject those found to be incorrect and not capable of adjustment, adjust any incorrect standard which is capable of adjustment and approve same for use;

(6) Inspect and test weights and measures [kept,] **commercially used in determining the weight, measure, or count of commodities, things sold, offered, or exposed for sale in computing the basic charge or payment for services rendered on the basis of weight, measure, or count**;

(7) Inspect and test all commercial devices at intervals deemed appropriate by the director and specified by regulations promulgated under the authority of this chapter, except that any subsequent test of the same device in the same calendar year shall be to retest a rejected device, conducted in conjunction with an investigation, or at the request of the owner/operator of the device;

(8) Test all [weighing and measuring devices] **weights and measures** used in checking the receipts or disbursements [for] **of supplies in** every institution which is maintained with funds appropriated by the general assembly;

(9) Approve for use, and mark **such commercial** weights and measures **as are** found to be correct. Reject and mark as rejected **and order to be corrected, replaced, or removed such commercial** weights and measures **as are** found to be incorrect. The director may seize **such commercial** weights and measures that have been rejected and not corrected within the time specified and have continued in commercial use, or are disposed of in a manner not specifically authorized and may condemn and may seize **such** commercial weights and measures that are not capable of being corrected;

(10) Weigh, measure, or inspect packaged commodities kept, offered, or exposed for sale, sold, or in the process of delivery, to determine whether they contain the amounts represented and whether they are kept, offered, or exposed for sale in accordance with sections 413.005 to 413.229 or regulations promulgated pursuant to sections 413.005 to 413.229. In carrying out the

provisions of this subdivision, the director shall employ recognized sampling procedures, such as are [designated] **adopted by the National Conference on Weights and Measures and are published** in the National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods";

(11) Prescribe, by regulation, the appropriate term or unit of weight [and] **or** measure to be used, whenever [it is determined] **the director determines** in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, numerical count, or any combination thereof, does not facilitate value comparisons by consumers or offers an opportunity for consumer confusion[.];

[2.] **(12)** No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo[.];

[3.] **(13)** The director may establish requirements for open dating information and may promulgate regulations establishing a method of sale of commodities.

413.075. POWERS OF DIRECTOR. — [1.] When necessary for the enforcement of sections 413.005 to 413.229 or regulations promulgated under sections 413.005 to 413.229, the director may:

(1) Enter any commercial premises during normal business hours; except that, in the event such premises are not open to the public, she/he shall first present his or her credentials and obtain consent before making entry thereto, unless a search warrant has previously been obtained;

(2) Seize, for use as evidence, without formal warrant, any incorrect or unapproved weight, measure, package, or commodity found to be used, retained, offered, or exposed for sale or sold in violation of the provisions of sections 413.005 to 413.229 or regulations promulgated thereunder;

(3) Stop any commercial vehicle, present his or her credentials, inspect the contents, and require the person in charge of that vehicle to produce any documents in his or her possession concerning the contents, and may require such person to proceed with the vehicle to some specified place for a more thorough inspection;

(4) Verify advertised prices and point-of-sale systems, as deemed necessary to determine the accuracy of prices and computations and the correct [operation] **use** of the equipment, and if such systems utilize scanning or coding means in lieu of manual entry, the accuracy of [the] **price printed or recalled from a database**. In carrying out the provisions of this section, the director shall employ recognized procedures, such as are designated in the most recent edition of National Institute of Standards and Technology Handbook 130, "**Examination Procedures for Price Verification**"; issue necessary rules and regulations regarding the accuracy of advertised prices and automated systems for retail price charging (**referred to as "point-of-sale systems"**) for the enforcement of this section which shall have the force and effect of law; and conduct investigations to ensure compliance;

(5) Grant any exemptions from the provisions of sections 413.005 to 413.229 or any regulations promulgated thereunder, when appropriate to the maintenance of good commercial practices[.];

[2. The director may] **(6)** Issue stop sale, stop use, hold or removal orders with respect to any weights and measures [unlawfully] **commercially** used, to any packaged or bulk commodities kept, offered or exposed for sale contrary to the provisions of this act, and cease and desist orders with respect to any practices made unlawful by this chapter, which order shall remain in effect until sections 413.005 to 413.229 have been complied with. The owner or operator of the business or operation to which the order was issued shall have the right to take such steps necessary to bring the device, commodity or practice into compliance, and shall also have the right to appeal from such order to the circuit court of the county in which the order was issued. Failure to comply with the provisions of the order shall be deemed an unlawful act.

413.085. CITY-AND COUNTY-APPOINTED WEIGHTS AND MEASURES OFFICIALS, POWERS AND DUTIES, EXCEPTION — CURRENT POWER OF DIRECTOR. — Weights and measures officials of any county or city shall perform the same duties as are imposed on the director by subdivisions (7) to (11) of subsection 1 of section 413.065, and except for subdivision (5) of subsection 1 of section 413.075 shall have the same powers granted to the director by section 413.075. These powers and duties shall extend to their respective jurisdictions; except that, the jurisdiction of a county **official** shall not extend into a city nor a city into a county which has a weights and measures program of its own. The foregoing provisions notwithstanding, the director shall have concurrent authority to enforce the provisions of sections 413.005 to 413.229 in any city or county within this state.

413.115. DECEPTIVE BUSINESS PRACTICES, PROHIBITED. — A person commits the crime of deceptive business practice if in the course of engaging in a business, occupation or profession, he or she recklessly:

- (1) Uses commercially an incorrect, rejected or condemned weight or measure, or any other device for falsely determining or recording any quality or quantity; or
- (2) Sells, offers or exposes for sale, or delivers less than the represented quantity of any commodity or service; or
- (3) Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he or she furnishes the weight or measure by means of which the quantity is determined; or
- (4) Sells, offers or exposes for sale misbranded commodities; or
- (5) Misrepresents the quantity or price of any commodity or service sold, offered, exposed or advertised for sale, rent or lease by weight, measure or count.

413.125. BULK SALES, DELIVERY TICKET REQUIRED, WHEN, CONTENT. — All bulk sales in which the buyer and seller are not both present to witness the measurement shall be accompanied by a delivery ticket containing the following information:

- (1) The name and address of the buyer and the seller;
- (2) The date delivered;
- (3) The quantity delivered and the quantity upon which the price is based, if this differs from the delivered quantity;
- (4) The identity in the most descriptive terms commercially practicable, including any quality representation made in connection with the sale;
- (5) The count of [individual] **individually wrapped** packages, if more than one, **including commodities bought from the bulk but delivered in packages.**

413.135. PROHIBITED ACTIONS. — No person shall:

- (1) Sell, offer for sale or install for use as a commercial device any incorrect weight or measure;
- (2) Remove from any weight or measure any tag, seal or mark placed thereon by the director, without written authorization from the director;
- (3) Dispose of any rejected or condemned weight or measure in a manner contrary to law or regulation;
- (4) Obstruct, hinder, impair or prevent the performance of a governmental function by a weights and measures official by the use or threat of violence, force or other physical interference or obstacle;
- (5) Use, or have in possession for current use as a commercial device, any weight or measure that has not been inspected and sealed by the director within the time specified by this act or regulation promulgated hereunder, except that this subdivision does not apply if the director has been notified that a device is available for inspection or reinspection and the director

grants or has granted authorization for its temporary commercial use pending an official inspection;

(6) Use in retail trade a weight or measure that is not positioned so that its indications may be accurately read and the weighing or measuring operation observed from some position which may be reasonably assumed by [a] **the customer and operator**. Devices used for medical prescription and those used exclusively to prepare packages in advance of retail sale are exempt from this requirement;

(7) Keep for the purpose of sale, advertise, offer or expose for sale or sell any commodity, thing or service in a condition or manner contrary to law or regulation.

413.145. PACKAGES FOR SALE, CERTAIN INFORMATION ON PACKAGE REQUIRED. —

Except as otherwise provided in sections 413.005 to 413.229 or by regulations promulgated thereunder, any package **whether a random or a standard package**, kept for the purpose of sale, or offer or exposure for sale, shall bear on the outside of the package a definite, plain, and conspicuous declaration of:

(1) The identity of the commodity in the package, unless the same can easily be identified through the wrapper or container;

(2) The quantity of contents in terms of weight, measure, or count; and

(3) The name and place of business of the manufacturer, packer or distributor, in the case of any package kept, offered or exposed for sale, or sold in any place other than on the premises where packed.

413.155. PACKAGES CONTAINING RANDOM WEIGHTS TO STATE PRICE PER SINGLE UNIT

OF WEIGHT. — In addition to the declarations required by section 413.145, any package [which is] **being** one of a lot containing random weights of the same commodity [and bearing the total selling price of the package], **at the time it is offered or exposed for sale at retail**, shall bear on the outside of the package a plain and conspicuous declaration of the price per [single unit of weight] **kilogram or pound and the total selling price of the package**.

413.165. ADVERTISING PACKAGED COMMODITY STATING RETAIL PRICE, QUANTITY

ALSO REQUIRED ON PACKAGE — DUAL DECLARATION, REQUIREMENT. — A representation or an advertisement for the sale of a commodity by weight, measure or count, whether packaged or unpackaged, which states the retail price, shall also contain a clear and conspicuous declaration of the quantity in terms of weight, measure or count, to include any size or dimension designation. Where a dual declaration is required, only the declaration that sets forth the quantity in terms of the [smaller] **largest whole unit with any remainder expressed in fractions** of weight or measure **required by law or regulation to appear on the package** need appear in the advertisement.

413.225. FEES — RATES — DUE AT TIME OF REGISTRATION, INSPECTION OR

CALIBRATION, FAILURE TO PAY FEE, EFFECT, PENALTY. — 1. There is established a fee for registration, inspection and calibration services performed by the division of weights and measures. The fees are due at the time the service is rendered and shall be paid to the director by the person receiving the service. The director shall collect fees according to the following schedule and shall deposit them with the state treasurer into general revenue for the use of the state of Missouri:

(1) From August 28, 1994, until the next January first, laboratory fees for metrology calibrations shall be at the rate of twenty-five dollars per hour for tolerance testing and thirty-five dollars per hour for precision calibration. Time periods over one hour shall be computed to the nearest hour. On the first day of January, 1995, and each year thereafter, the director of agriculture shall ascertain the total receipts and expenses for the metrology calibrations during the preceding year and shall fix a fee schedule for the ensuing year at a rate per hour which shall

not exceed sixty dollars per hour for either method but shall not be less than twenty-five dollars per hour for tolerance testing and thirty-five dollars per hour for precision calibration, as will yield revenue not more than the total cost of operating the metrology laboratory during the ensuing year;

(2) From August 28, 1994, until the next January first, all scale test fees shall be charged as follows:

(a) Small scales shall be five dollars for each counter scale, ten dollars for platform scales up to one thousand-pound capacity, and twenty dollars for each platform scale over one thousand-pound capacity;

(b) Vehicle scales shall be fifty dollars each for the initial test and seventy-five dollars for each subsequent test within the same calendar year;

(c) Livestock scales shall be seventy-five dollars each for the initial test, and one hundred dollars for each subsequent test within the same calendar year;

(d) Hopper scales with a capacity of one thousand pounds or less shall be ten dollars each; for each hopper scale with a capacity of more than one thousand pounds up to and including two thousand pounds, the fee shall be twenty dollars; for each hopper scale with a capacity of more than two thousand pounds up to and including ten thousand pounds, the fee shall be fifty dollars; and for those hopper scales with a capacity of more than ten thousand pounds, the test fee shall be seventy-five dollars each;

(e) Railroad scales shall be fifty dollars each;

(f) Monorail scales shall be twenty-five dollars each for the initial test and fifty dollars for each subsequent test in the same calendar year;

(g) Participation in on-site field evaluations of devices for National Type Evaluation Program certification and all tests of in-motion scales including but not limited to vehicle, railroad and belt conveyor scales will be charged at the rate of thirty dollars per hour, plus mileage from the inspector's official domicile to and from the inspection site. The time shall begin when the state inspector performing the inspection arrives at the site to be inspected and shall end when the final report is signed by the owner/operator and the inspector departs;

(3) From August 28, 1994, until the next January first, certification of taximeters shall be five dollars per meter; timing devices, five dollars per device; fabric-measuring devices, wire- and cordage-measuring devices, five dollars per device; milk for quantity determination, twenty-five dollars per plant inspected;

(4) From August 28, 1994, until the next January first, certification of vehicle tank meters shall be twenty-five dollars each for the initial test and fifty dollars for each subsequent test in the same calendar year;

(5) Every person shall register each location of such person's place of business where devices or instruments are used to ascertain the moisture content of grains and seeds offered for sale, processing or storage in this state with the director and shall pay a registration fee of ten dollars for each location so registered and a fee of five dollars for each additional device or instrument at such location. Thereafter, by January thirty-first of each year, each person who is required to register pursuant to this subdivision shall pay an annual fee of ten dollars for each location so registered and an additional five dollars for each additional machine at each location. The fee on newly purchased devices shall be paid within thirty days after the date of purchase. Application for registration of a place of business shall be made on forms provided by the director and shall require information concerning the make, model and serial number of the device and such other information as the director shall deem necessary. Provided, however, this subsection shall not apply to moisture-measuring devices used exclusively for the purpose of obtaining information necessary to manufacturing processes involving plant products. In addition to fees required by this subdivision, a fee of ten dollars shall be charged for each device subject to retest.

2. On the first day of January, 1995, and each year thereafter, the director of agriculture shall ascertain the total receipts and expenses for the testing of weighing and measuring devices

referred to in subdivisions (2), (3), (4) and (5) of subsection 1 of this section and shall fix the fees or rate per hour for such weighing and measuring devices to derive revenue not more than the total cost of the operation, but such fees shall not be fixed in amounts less than the amounts contained in subdivisions (2), (3), (4) and (5) of subsection 1 of this section.

3. Except as indicated in subdivision (2)(b)(c) and (f) and subdivisions (4) and (5) of subsection 1, retests for any device within the same calendar year will be charged at the same rate as the initial test. Devices being retested in the same calendar year as a result of rejection and repair are exempt from the requirements of this subsection.

4. **All device inspection fees shall be paid within thirty days of the issuance of the original invoice.** [Fees not paid within thirty days from the date of the original invoice shall bear interest of one percent per month until the total amount is paid.] Any fee not paid within ninety days after the date of the original invoice [will be assessed a penalty of one hundred dollars in addition to the one percent interest per month. Fees plus interest and penalty not paid prior to the next scheduled inspection] will be cause for the director to deem the device as incorrect and it [shall] **may** be condemned and taken out of service, and may be seized by the director until all fees [and penalties] are paid.

5. No fee provided for by this section shall be required of any person owning or operating a moisture-measuring device or instrument who uses such device or instrument solely in agricultural or horticultural operations on such person's own land, and not in performing services, whether with or without compensation, for another person.

413.227. VIOLATIONS, PROCEDURE, NOTICES, CONTENTS — HEARING, RIGHTS OF VIOLATOR — PENALTY — APPEAL — DEPOSIT OF PENALTY. — 1. Any person found to be in violation of any provision of this chapter shall be issued a notice of violation. The notice shall state the date issued, the name and address of the person to whom issued, the nature of the violation, the statute or regulation violated, and the name and position of the person issuing the notice. The notice shall also contain a warning that the violation may result in an informal or formal administrative hearing or both.

2. Any person issued a notice of violation may be afforded an opportunity by the director to explain such facts at an informal hearing to be conducted within fourteen days of such notification. In the event that such person fails to timely respond to such notification or upon unsuccessful resolution of any issues relating to an alleged violation, such person may be summoned to a formal administrative hearing before the director or a designated hearing officer conducted in conformance with chapter 536, RSMo, and [if found to have committed two or more violations within twelve months,] may be ordered to cease and desist from such violations, such order may be enforced in the circuit court, and, in addition, may be required to pay a penalty of not more than five hundred dollars per violation. Any party to such hearing aggrieved by a determination of a hearing officer may appeal to the circuit court of the county in which the party resides, or if the party is the state, in Cole County, in accordance with chapter 536, RSMo.

3. Any penalty assessed and collected by the director shall be deposited with the state treasurer to the credit of the general revenue fund of the state.

4. Undercharges to consumers are not violations pursuant to this section.

413.229. CRIMINAL PENALTIES FOR VIOLATIONS. — 1. Any person found in violation of any provisions of this chapter shall be deemed guilty of a class A misdemeanor.

2. Any person found to have purposely violated any provisions of this chapter, has been previously convicted twice for the same offense under the misdemeanor provisions of this section, or uses or has in his or her possession for use a commercial device which has been altered to facilitate the commission of fraud shall be deemed guilty of a class D felony.

3. The prosecutor of each county in which a violation occurs shall be empowered to bring an action hereunder. If a prosecutor declines to bring such action, the attorney general may bring an action instead, and in so doing shall have all of the powers and jurisdiction of such prosecutor.

Approved June 12, 2002

SB 1078 [HCS SB 1078]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the custodian of the Statutory County Recorder's Fund.

AN ACT to repeal sections 59.800 and 400.9-525, RSMo, and to enact in lieu thereof two new sections relating to the recording fees.

SECTION

- A. Enacting clause.
- 59.800. Additional five-dollar fee imposed, when, distribution — fund established.
- 400.9-525. Fees.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 59.800 and 400.9-525, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 59.800 and 400.9-525, to read as follows:

59.800. ADDITIONAL FIVE-DOLLAR FEE IMPOSED, WHEN, DISTRIBUTION — FUND ESTABLISHED. — 1. Beginning on July 1, 2001, notwithstanding any other condition precedent required by law to the recording of any instrument specified in subdivisions (1) and (2) of section 59.330, an additional fee of five dollars shall be charged and collected by every recorder of deeds in this state on each instrument recorded. The additional fee shall be distributed as follows:

- (1) One dollar and twenty-five cents to the recorder's fund established pursuant to subsection 1 of section 59.319, provided, however, that all funds received pursuant to this section shall be used exclusively for the purchase, installation, upgrade and maintenance of modern technology necessary to operate the recorder's office in an efficient manner;
- (2) One dollar and seventy-five cents to the county general revenue fund; and
- (3) Two dollars to the fund established in subsection 2 of this section.

2. There is hereby established [in the state treasury] a revolving fund known as the "Statutory County Recorder's Fund", which shall receive funds paid to the recorders of deeds of the counties of this state pursuant to subdivision (3) of subsection 1 of this section. The [state treasurer] **director of the department of revenue** shall be custodian of the fund and shall make disbursements from the fund for the purpose of subsidizing the fees collected by counties that hereafter elect or have heretofore elected to separate the offices of clerk of the circuit court and recorder. The subsidy shall consist of the total amount of moneys collected pursuant to subdivisions (1) and (2) of subsection 1 of this section subtracted from fifty-five thousand dollars. The moneys paid to qualifying counties pursuant to this subsection shall be deposited in the county general revenue fund. For purposes of this section a "qualified county" is a county that hereafter elects or has heretofore elected to separate the offices of clerk of the circuit court and recorder and in which the office of the recorder of deeds collects less than fifty-five thousand dollars in fees pursuant to subdivisions (1) and (2) of subsection 1 of this section, on an annual basis. **Monies in the statutory county recorder's fund shall be deemed non-state funds.**

[3. Any unexpended balance in the fund at the end of any biennium is exempt from the provisions of section 33.080, RSMo, relating to transfer of unexpended balances to the general revenue fund.]

400.9-525. FEES. — (a) Except as otherwise provided in subsection (e), the fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in section 400.9-502(c), is [the amount specified in subsection (c), if applicable, plus]:

(1) If the filing office is the secretary of state's office, then twelve dollars for the first page and one dollar for each subsequent page if the record is communicated in writing or by another medium authorized by filing-office rule, of which fee seven dollars is received and collected by the secretary of state on behalf of the [county employees' retirement fund established pursuant to section 50.1010, RSMo, provided, however, that in any charter county or city not within a county whose employees are not members of the county employees' retirement fund, the fee collected for the county employees' retirement fund established pursuant to section 50.1010, RSMo, shall go to the general revenue fund of that charter county or city not within a county] **counties of this state for deposit in the uniform commercial code transition fee trust fund;** or

(2) If the filing office is other than the secretary of state's office, then the fee otherwise allowed by law.

(b) Except as otherwise provided in subsection (e), the fee for filing and indexing an initial financing statement of the kind described in section 400.9-502(c) is [the amount specified in subsection (c), if applicable, plus]:

(1) If the filing office is the secretary of state's office, then twelve dollars for the first page and one dollar for each subsequent page if the record is communicated in writing or by another medium authorized by filing-office rule, of which fee seven dollars is received and collected by the secretary of state on behalf of the [county employees' retirement fund established pursuant to section 50.1010, RSMo, provided, however, that in any charter county or city not within a county whose employees are not members of the county employees' retirement fund, the fee collected for the county employees' retirement fund established pursuant to section 50.1010, RSMo, shall go to the general revenue fund of that charter county or city not within a county] **counties of this state for deposit in the uniform commercial code transition fee trust fund;** or

(2) If the filing office is other than the secretary of state's office, then the fee otherwise allowed by law.

(c) The number of names required to be indexed does not affect the amount of the fee in subsections (a) and (b).

(d) The fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor, is:

(1) If the filing office is the secretary of state's office, then twenty-two dollars for the first page and one dollar for each subsequent page if the record is communicated in writing or by another medium authorized by filing-office rule, of which fee seven dollars is received and collected by the secretary of state on behalf of the [county employees' retirement fund established pursuant to section 50.1010, RSMo, provided, however, that in any charter county or city not within a county whose employees are not members of the county employees' retirement fund, the fee collected for the county employees' retirement fund established pursuant to section 50.1010, RSMo, shall go to the general revenue fund of that charter county or city not within a county] **counties of this state for deposit in the uniform commercial code transition fee trust fund;** or

(2) If the filing office is other than the secretary of state's office, then the fee otherwise allowed by law.

(e) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering

as-extracted collateral or timber to be cut under section 400.9-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

(f) The [secretary of state] **department of revenue** shall administer a special trust fund, which is hereby established, to be known as the "Uniform Commercial Code Transition Fee Trust Fund", and which shall be funded by seven dollars of each of the fees received and collected pursuant to subdivisions (a), (b) and [(c)] **(d)** of this section on behalf of the [county employees' retirement fund established pursuant to section 50.1010, RSMo, or the general revenue fund of any charter county or city not within a county whose employees are not members of the county employees' retirement fund] **counties of this state for deposit in the uniform commercial code transition fee trust fund.**

(1) The secretary of state shall keep **and provide to the department of revenue and the county employees' retirement fund an** accurate record of the moneys **to be deposited** in the uniform commercial code transition fee trust fund allocated to each county and city not within a county on the basis of where such record, financing statement or other document would have been filed prior to July 1, 2001, and **the department of revenue** shall distribute the moneys pursuant to subdivision (2) of this subsection on that basis.

(2) The moneys in the uniform commercial code transition fee trust fund shall be distributed to the county employees' retirement fund established pursuant to section 50.1010, RSMo, or the general revenue fund of any charter county or city not within a county whose employees are not members of the county employees' retirement fund.

(3) The moneys in the uniform commercial code transition fee trust fund shall [not] be deemed to be [state funds] **nonstate funds, as defined in section 15 of article IV of the Missouri Constitution, to be administered by the department of revenue,** provided, however that interest, if any, earned by the money in the trust fund shall be deposited into the general revenue fund in the state treasury.

Approved July 11, 2002

SB 1086 [HCS SCS SB 1086 & 1126]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows City of Independence to require abatement of weeds or trash.

AN ACT to repeal sections 67.398, 71.285, 447.620, 447.622, 447.625, 447.632, 447.636, 447.638, and 447.640, RSMo, and to enact in lieu thereof ten new sections relating to nuisance abatement.

SECTION

- A. Enacting clause.
- 67.398. Debris on property, ordinance may require abatement — abatement for vacant building in Kansas City — effect of failure to remove nuisance, penalties.
- 67.402. Abatement of nuisance (Jefferson County) — ordinance requirements.
- 71.285. Weeds or trash, city may cause removal and issue tax bill, when — certain cities may order abatement and remove weeds or trash, when — section not to apply to certain cities, when — city official may order abatement in certain cities — removal of weeds or trash, costs.
- 447.620. Definitions.
- 447.622. Petition, requirements.
- 447.625. Procedures in certain cities (Jackson County).
- 447.632. Grant of petition, requirements.
- 447.636. Quarterly report.

- 447.638. Restoration of possession, compensation.
447.640. Quitclaim judicial deed may be granted, conditions, effect.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE.— Sections 67.398, 71.285, 447.620, 447.622, 447.625, 447.632, 447.636, 447.638, and 447.640, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 67.398, 67.402, 71.285, 447.620, 447.622, 447.625, 447.632, 447.636, 447.638, and 447.640, to read as follows:

67.398. DEBRIS ON PROPERTY, ORDINANCE MAY REQUIRE ABATEMENT—ABATEMENT FOR VACANT BUILDING IN KANSAS CITY — EFFECT OF FAILURE TO REMOVE NUISANCE, PENALTIES. — 1. The governing body of any city[, town] or village, or any county having a charter form of government, or any county of the first classification that contains part of a city with a population of at least three hundred thousand inhabitants, may enact ordinances to provide for the abatement of a condition of any lot or land that has the presence of [debris of any kind] **a nuisance** including, but not limited to, **debris of any kind**, weed cuttings, cut [and], fallen, **or hazardous** trees and shrubs, overgrown vegetation and noxious weeds which are seven inches or more in height, rubbish and trash, lumber not piled or stacked twelve inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture, any flammable material which may endanger public safety or any material **or condition** which is unhealthy or unsafe and declared to be a public nuisance.

2. **The governing body of any home rule city with more than four hundred thousand inhabitants and located in more than one county may enact ordinances for the abatement of a condition of any lot or land that has vacant buildings or structures open to entry.**

3. Any ordinance authorized by this section may provide that if the owner fails to begin removing **or abating** the nuisance within a specific time which shall not be [longer] **less** than seven days of receiving notice that the nuisance has been ordered removed **or abated**, or upon failure to pursue the removal **or abatement** of such nuisance without unnecessary delay, the building commissioner or designated officer [shall] **may** cause the condition which constitutes the nuisance to be removed **or abated**. If the building commissioner or designated officer causes such condition to be removed or abated, the cost of such removal **or abatement** shall be certified to the city clerk or officer in charge of finance who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, for the property and the certified cost shall be collected by the city collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

67.402. ABATEMENT OF NUISANCE (JEFFERSON COUNTY) — ORDINANCE REQUIREMENTS. — 1. **The governing body of any county of the first classification without a charter form of government and with more than one hundred ninety-eight thousand but less than one hundred ninety-nine thousand two hundred inhabitants may enact ordinances to provide for the abatement of a condition of any lot or land that has the presence of rubbish and trash, lumber, bricks, tin, steel, parts of derelict motorcycles, derelict cars, derelict trucks, derelict construction equipment, derelict appliances and broken furniture which may endanger public safety or which is unhealthy or unsafe and declared to be a public nuisance.**

2. **Any ordinance enacted pursuant to this section shall:**

(1) **Set forth those conditions which constitute a nuisance and which are detrimental to the health, safety, or welfare of the residents of the county;**

(2) Provide for duties of inspectors with regard to those conditions which may be declared a nuisance, and shall provide for duties of the building commissioner or designated officer or officers to supervise all inspectors and to hold hearings regarding such property;

(3) Provide for service of adequate notice of the declaration of nuisance, which notice shall specify that the nuisance is to be abated, listing a reasonable time for commencement, and may provide that such notice be served either by personal service or by certified mail, return receipt requested, but if service cannot be had by either of these modes of service, then service may be had by publication. The ordinances shall further provide that the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in the property as shown by the land records of the recorder of deeds of the county wherein the property is located shall be made parties;

(4) Provide that upon failure to commence work of abating the nuisance within the time specified or upon failure to proceed continuously with the work without unnecessary delay, the building commissioner or designated officer or officers shall call and have a full and adequate hearing upon the matter before the county commission, giving the affected parties at least ten days written notice of the hearing. Any party may be represented by counsel, and all parties shall have an opportunity to be heard. After the hearings, if evidence supports a finding that the property is a nuisance or detrimental to the health, safety, or welfare of the residents of the county, the county commission shall issue an order making specific findings of fact, based upon competent and substantial evidence, which shows the property to be a nuisance and detrimental to the health, safety, or welfare of the residents of the county and ordering the nuisance abated. If the evidence does not support a finding that the property is a nuisance or detrimental to the health, safety, or welfare of the residents of the county, no order shall be issued.

3. Any ordinance authorized by this section may provide that if the owner fails to begin abating the nuisance within a specific time which shall not be longer than seven days of receiving notice that the nuisance has been ordered removed, the building commissioner or designated officer shall cause the condition which constitutes the nuisance to be removed. If the building commissioner or designated officer causes such condition to be removed or abated, the cost of such removal shall be certified to the county clerk or officer in charge of finance who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the county collector's option, for the property and the certified cost shall be collected by the county collector in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

71.285. WEEDS OR TRASH, CITY MAY CAUSE REMOVAL AND ISSUE TAX BILL, WHEN —
CERTAIN CITIES MAY ORDER ABATEMENT AND REMOVE WEEDS OR TRASH, WHEN —
SECTION NOT TO APPLY TO CERTAIN CITIES, WHEN — CITY OFFICIAL MAY ORDER
ABATEMENT IN CERTAIN CITIES — REMOVAL OF WEEDS OR TRASH, COSTS. — 1. Whenever weeds or trash, in violation of an ordinance, are allowed to grow or accumulate, as the case may be, on any part of any lot or ground within any city, town or village in this state, the owner of the ground, or in case of joint tenancy, tenancy by entireties or tenancy in common, each owner thereof, shall be liable. The marshal or other city official as designated in such ordinance shall give a hearing after ten days' notice thereof, either personally or by United States mail to the owner or owners, or his or her or their agents, or by posting such notice on the premises; thereupon, the marshal or other designated city official may declare the weeds or trash to be a nuisance and order the same to be abated within five days; and in case the weeds or trash are not

removed within the five days, the marshal or other designated city official shall have the weeds or trash removed, and shall certify the costs of same to the city clerk, who shall cause a special tax bill therefor against the property to be prepared and to be collected by the collector, with other taxes assessed against the property; and the tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity, and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance, shall be a defense thereto. Each special tax bill shall be issued by the city clerk and delivered to the collector on or before the first day of June of each year. Such tax bills if not paid when due shall bear interest at the rate of eight percent per annum. Notwithstanding the time limitations of this section, any city, town or village located in a county of the first classification may hold the hearing provided in this section four days after notice is sent or posted, and may order at the hearing that the weeds or trash shall be abated within five business days after the hearing and if such weeds or trash are not removed within five business days after the hearing, the order shall allow the city to immediately remove the weeds or trash pursuant to this section. Except for lands owned by a public utility, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad, the department of transportation, the department of natural resources or the department of conservation, the provisions of this subsection shall not apply to any city with a population of at least seventy thousand inhabitants which is located in a county of the first classification with a population of less than one hundred thousand inhabitants which adjoins a county with a population of less than one hundred thousand inhabitants that contains part of a city with a population of three hundred fifty thousand or more inhabitants, any city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first classification, or any city, town or village located within a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, or any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, or the City of St. Louis, where such city, town or village establishes its own procedures for abatement of weeds or trash, and such city may charge its costs of collecting the tax bill, including attorney fees, in the event a lawsuit is required to enforce a tax bill.

2. Except as provided in subsection 3 of this section, if weeds are allowed to grow, or if trash is allowed to accumulate, on the same property in violation of an ordinance more than once during the same growing season in the case of weeds, or more than once during a calendar year in the case of trash, in any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, in the City of St. Louis, in any city, town or village located in a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants [or], in any fourth class city located in a county of the first classification with a charter form of government and a population of less than three hundred thousand, **or in any home rule city with more than one hundred thirteen thousand two hundred but less than one hundred thirteen thousand three hundred inhabitants located in a county with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants**, the marshal or other designated city official may order that the weeds or trash be abated within five business days after notice is sent to or posted on the property. In case the weeds or trash are not removed within the five days, the marshal or other designated city official may have the weeds or trash removed and the cost of the same shall be billed in the manner described in subsection 1 of this section.

3. If weeds are allowed to grow, or if trash is allowed to accumulate, on the same property in violation of an ordinance more than once during the same growing season in the case of weeds, or more than once during a calendar year in the case of trash, in any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, in the City of St. Louis, in any city, town or village located in a county of the first classification with a charter form of government with a population of nine hundred thousand or

more inhabitants [or], in any fourth class city located in a county of the first classification with a charter form of government and a population of less than three hundred thousand, **in any home rule city with more than one hundred thirteen thousand two hundred but less than one hundred thirteen thousand three hundred inhabitants located in a county with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants or in any third class city with a population of at least ten thousand inhabitants but less than fifteen thousand inhabitants with the greater part of the population located in a county of the first classification**, the marshal or other designated official may, without further notification, have the weeds or trash removed and the cost of the same shall be billed in the manner described in subsection 1 of this section. The provisions of subsection 2 and this subsection do not apply to lands owned by a public utility and lands, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad.

4. The provisions of this section shall not apply to any city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first classification where such city establishes its own procedures for abatement of weeds or trash, and such city may charge its costs of collecting the tax bill, including attorney fees, in the event a lawsuit is required to enforce a tax bill.

447.620. DEFINITIONS. — As used in sections 447.620 to 447.640, the following terms mean:

(1) "Housing code", a local building, fire, health, property maintenance, nuisance, or other ordinance which contains standards regulating the condition or maintenance of residential buildings;

(2) "Last known address", the address where the property is located or the address as listed in the property tax records;

(3) ["Low- or moderate-income housing", housing for persons and families who lack the amount of income necessary to rent or purchase adequate housing without financial assistance, as defined by such income limits as shall be established by the Missouri housing development commission for the purposes of determining eligibility under any program aimed at providing housing for low- and moderate-income families or persons;

(4)] "Municipality", any incorporated city, town, or village;

[(5)] **(4)** "Nuisance", any property which because of its physical condition or use is a public nuisance or any property which constitutes a blight on the surrounding area or any property which is in violation of the applicable housing code such that it constitutes a substantial threat to the life, health, or safety of the public. For purposes of sections 447.620 to 447.640, any declaration of a public nuisance by a municipality pursuant to an ordinance adopted pursuant to sections 67.400 to 67.450, RSMo, shall constitute prima facie evidence that the property is a nuisance;

[(6)] **(5)** "Organization", any Missouri not-for-profit organization validly organized pursuant to law and whose purpose includes the provision or enhancement of housing opportunities in its community;

[(7)] **(6)** "Parties in interest", any owner or owners of record, occupant, lessee, mortgagee, trustee, personal representative, agent, or other party having an interest in the property as shown by the land records of the recorder of deeds of the county wherein the property is located, except in any municipality contained wholly or partially within a county [with a population of over six hundred thousand and less than nine hundred thousand] **with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants**, "parties in interest" shall mean owners, lessees, mortgagees, or lienholders whose interest has been recorded or filed in the public records;

[(8)] **(7)** "Rehabilitation", the process of improving the property, including, but not limited to, bringing the property into compliance with the applicable housing code.

447.622. PETITION, REQUIREMENTS. — Any organization may petition to have property declared abandoned pursuant to the provisions of sections 447.620 to 447.640 and for temporary possession of such property, if:

- (1) The property has been continuously unoccupied by persons legally entitled to possession for at least one month prior to the filing of the petition;
- (2) The taxes are delinquent on the property;
- (3) The property is a nuisance; and
- (4) The organization intends to rehabilitate the property [and use the property as low- or moderate-income housing].

447.625. PROCEDURES IN CERTAIN CITIES (JACKSON COUNTY). — 1. Any petition filed under the provisions of sections 447.620 to 447.640 which pertains to property located within any [municipality contained wholly or partially within a county with a population of over six hundred thousand and less than nine hundred thousand] **home rule city with more than four hundred thousand inhabitants and located in more than one county** shall meet the requirements of this section.

2. Summons shall be issued and service of process shall be had as in other in rem or quasi in rem civil actions.

3. The petition shall contain a prayer for a court order approving the organization's rehabilitation plan and granting temporary possession of the property to the organization. The petition shall also contain a prayer for a sheriff's deed conveying title to the property to the organization [at the expiration of the one-year period following entry of the order granting temporary possession of the property to the organization] **upon the completion of rehabilitation** when no owner has regained possession of the property pursuant to section [447.438] **447.638**.

4. The court shall stay any ruling on the organization's prayer for a sheriff's deed until [the one-year period has expired] **rehabilitation has been completed**.

5. The owner [shall be entitled to regain possession of the property by motion instead of a new petition under section 447.638. The compensation to be paid shall be set] **may file a motion for restoration of possession of the property prior to the completion of rehabilitation. The court shall determine whether to restore possession to the owner and proper compensation to the organization** in the same manner as in section 447.638.

6. [The] **Upon completion of rehabilitation the** organization may file a motion for sheriff's deed in place of a petition for judicial deed under section 447.640.

7. The provisions of sections 447.620 to 447.640 shall apply except where they are in conflict with this section.

447.632. GRANT OF PETITION, REQUIREMENTS. — The court shall grant the organization's petition if the court finds that the conditions alleged by the plaintiff as specified in section 447.622 [exist] **existed at the time the verified petition was filed in the circuit court**, that the plan for the rehabilitation of the property submitted to the court by the plaintiff is feasible, and defendant has failed to demonstrate that the plaintiff should not be allowed to rehabilitate the property.

447.636. QUARTERLY REPORT. — The organization shall file [an annual] **a quarterly** report of its rehabilitation and use of the property, including a statement of all expenditures made by the organization and all income and receipts from the property for the preceding [years] **quarters**.

447.638. RESTORATION OF POSSESSION, COMPENSATION. — The owner [shall be entitled to regain possession of the property by petitioning] **may petition** the circuit court for restoration of possession **of the property** and, upon due notice to the plaintiff organization, for a hearing

on such petition. At the hearing, the court shall determine **whether the owner has the capacity and the resources to complete rehabilitation of the property if such work has not been completed by the organization. If the court determines that the owner does not have the capacity or the resources to complete rehabilitation of the property the court shall not restore possession to the owner. If the court determines that the rehabilitation work has been completed by the organization or that the owner has the capacity and the resources to complete the rehabilitation, the court shall then determine** proper compensation to the organization for its expenditures, including management fees, based on the organization's reports to the court. The court, in determining the proper compensation to the organization, may consider income or receipts received from the property by the organization. After the owner pays the compensation to the organization as determined by the court, the owner shall resume possession of the property, subject to all existing rental agreements, whether written or verbal, entered into by the organization.

447.640. QUITCLAIM JUDICIAL DEED MAY BE GRANTED, CONDITIONS, EFFECT. — If an owner [takes no action to] **does not** regain possession of the property in the one-year period following entry of an order granting temporary possession of the property to the organization, the organization may file a petition for judicial deed and, upon due notice to the named defendants, an order may be entered granting a quitclaim judicial deed to the organization. A conveyance by judicial deed shall operate to extinguish all existing ownership interests in, liens on, and other interest in the property, except tax liens.

Approved June 27, 2002

SB 1093 [HCS SCS SB 1093]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises the process for the registration of historic motor vehicle plates.

AN ACT to repeal section 301.131, RSMo, and to enact in lieu thereof one new section relating to historic motor vehicles, with penalty provisions.

SECTION

A. Enacting clause.

301.131. Historic motor vehicles, permanent registration, fee — license plates — annual mileage allowed, record to be kept — penalty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 301.131, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.131, to read as follows:

301.131. HISTORIC MOTOR VEHICLES, PERMANENT REGISTRATION, FEE — LICENSE PLATES — ANNUAL MILEAGE ALLOWED, RECORD TO BE KEPT — PENALTY. — 1. Any motor vehicle over twenty-five years old which is owned solely as a collector's item and which is used and intended to be used for exhibition and educational purposes shall be permanently registered upon payment of a registration fee of twenty-five dollars. Upon the transfer of the title to any such vehicle the registration shall be canceled and the license plates issued therefor shall be returned to the director of revenue.

2. The owner of any such vehicle shall file an application in a form prescribed by the director, if such vehicle meets the requirements of this section, and a certificate of registration shall be issued therefor. Such certificate need not specify the horsepower of the motor vehicle.

3. The director shall issue to the owner of any motor vehicle registered pursuant to this section the same number of license plates which would be issued with a regular annual registration, containing the number assigned to the registration certificate issued by the director of revenue. [Such license plates shall be kept securely attached to the motor vehicle registered hereunder. The advisory committee established in section 301.129 shall determine the characteristic features of such license plates for vehicles registered pursuant to the provisions of this section so that they may be recognized as such, except that] Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

4. Historic vehicles may be driven to and from repair facilities one hundred miles from the vehicle's location, and in addition may be driven up to one thousand miles per year for personal use. The owner of the historic vehicle shall be responsible for keeping a log of the miles driven for personal use each calendar year. Such log must be kept in the historic vehicle when the vehicle is driven on any state road. The historic vehicle's mileage driven in an antique auto tour or event and mileage driven to and from such a tour or event shall not be considered mileage driven for the purpose of the mileage limitations in this section. Violation of this section is a class C misdemeanor and in addition to any other penalties prescribed by law, upon conviction thereof, the director of revenue shall revoke the historic motor vehicle license plates of such violator which were issued pursuant to this section.

5. Notwithstanding any provisions of this section to the contrary, any person possessing a license plate issued by the state of Missouri [prior to 1979] **that is over twenty-five years old**, in which the year of the issuance of such plate is consistent with the year of the manufacture of the vehicle, the owner of the vehicle may register such plate as [a personalized plate by following the procedures for personalized license plate registration and paying the same fees as prescribed in section 301.144] **an historic vehicle plate as set forth in subsections 1 and 2 of this section, provided that the configuration of letters, numbers or combination of letters and numbers of such plate are not identical to the configuration of letters, numbers or combination of letters and numbers of any plates already issued to an owner by the director.** Such license plate shall not be required to possess the characteristic features of reflective material and common color scheme and design as prescribed in section 301.130. **The owner of the historic vehicle registered pursuant to this subsection shall keep the certificate of registration in the vehicle at all times. The certificate of registration shall be prima facie evidence that the vehicle has been properly registered with the director and that all fees have been paid.**

Approved July 3, 2002

SB 1094 [HCS SB 1094]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Extends the sunset for the nursing facility reimbursement allowance to September 30, 2005.

AN ACT to repeal section 198.439, RSMo, and to enact in lieu thereof two new sections relating to long-term care programs.

SECTION

- A. Enacting clause.
- 198.439. Expiration date.
- 354.407. PACE projects not deemed health maintenance organizations, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 198.439, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 198.439 and 354.407 to read as follows:

198.439. EXPIRATION DATE. — Sections 198.401 to 198.436 shall expire on September 30, [2002] **2005**.

354.407. PACE PROJECTS NOT DEEMED HEALTH MAINTENANCE ORGANIZATIONS, WHEN. — **Notwithstanding the provisions of section 354.405 to the contrary, a program for all-inclusive care for the elderly (PACE) project sponsored by a religious or charitable organization that is itself or is controlled by an entity organized under Section 501(c)(3) of the Internal Revenue Code and which has had its application for the operation of a PACE program approved by the Center for Medicare and Medicaid Services of the federal Department of Health and Human Services and is operating under such approval shall not be deemed to be engaged in any business required to be licensed pursuant to section 354.405. Such exemption shall apply only to business conducted pursuant to the approved PACE contract and not to any other business that such organization may conduct.**

Approved July 3, 2002

SB 1102 [HCS SB 1102]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows county prosecutors jurisdiction for prosecuting nuisance cases under Section 191.683 RSMo.

AN ACT to repeal section 191.680, RSMo, and to enact in lieu thereof one new section relating to nuisance.

SECTION

- A. Enacting clause.
- 191.680. Maintaining a nuisance, abatement to be ordered, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 191.680, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 191.680, to read as follows:

191.680. MAINTAINING A NUISANCE, ABATEMENT TO BE ORDERED, WHEN. — 1. Any person who shall erect, establish, continue, maintain, use, own, or lease any building, structure, or place used for the purpose of lewdness, assignation, or illegal purpose involving sexual or other contact through which transmission of HIV infection can occur is guilty of maintaining a nuisance.

2. The building, structure, or place, or the ground itself, in or upon which any such lewdness, assignation, or illegal purpose is conducted, permitted, carried on, continued, or exists, and the furniture, fixtures, musical instruments, and movable property used in conducting or maintaining such nuisance, are hereby declared to be a nuisance and shall be enjoined and abated as provided in subsection 3 of this section.

3. If the existence of a nuisance is admitted or established in an action pursuant to this section or in a criminal proceeding in any court, an order of abatement shall be entered as part of the judgment in the case. The order shall direct the effectual closing of the business for any purpose, and so keeping it closed for a period of one year.

4. The department of health and senior services, **a county prosecutor, or a circuit attorney** shall file suit in its own name in any court of competent jurisdiction to enforce the provisions of this section.

Approved July 12, 2002

SB 1107 [CCS HS HCS SS SCS SB 1107]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises laws relating to ambulance districts and ambulance services.

AN ACT to repeal sections 87.207, 87.235, 99.847, 190.044, 190.050, 190.092, 190.094, 190.100, 190.101, 190.105, 190.108, 190.109, 190.120, 190.131, 190.133, 190.142, 190.143, 190.160, 190.165, 190.171, 190.175, 190.185, 190.196, 321.130 and 321.180, RSMo, and to enact in lieu thereof forty-three new sections relating to emergency services, with penalty provisions.

SECTION

A. Enacting clause.

- 87.177. Service retirement allowance, eligibility, application, benefits — survivor's right to share of benefits — cost-of-living allowance.
- 87.207. Cost-of-living increase, how determined.
- 87.231. Surviving spouse as special consultant to the board, when — compensation — effect on eligibility for retirement benefits.
- 87.235. Payments on proof of accidental death in service — beneficiaries.
- 87.238. Retired firefighters to act as special advisors to retirement system, when — compensation.
- 99.847. Reimbursement from special allocation fund for emergency services, when — no new TIF projects authorized for flood plain areas in St. Charles County, applicability of restriction.
- 190.050. Election districts, how established — election of directors — declaration of candidacy filed, where, when.
- 190.051. Change in number of board members, when — ballot language.
- 190.092. Defibrillators, use authorized when, conditions, notice — good faith immunity from civil liability, when.
- 190.094. Minimum ambulance staffing for certain counties (Cass, Bates, Henry, Johnson and St. Clair)
- 190.100. Definitions.
- 190.101. State advisory council on emergency medical services, members, purpose, duties.
- 190.105. Ambulance license required, exceptions — operation of ambulance services — sale or transfer of ownership, notice required.
- 190.108. Air ambulance licenses — sale or transfer of ownership, notice required.
- 190.109. Ground ambulance license.
- 190.120. Insurance, what coverage required — policy provisions required — term of policy.
- 190.131. Certification of training entities.
- 190.133. Emergency medical response agency license — limitations.
- 190.142. Emergency medical technician license — rules.
- 190.143. Temporary emergency medical technician license granted, when — limitations — expiration.
- 190.145. Lapse of license, request to return to active status, procedure.

- 190.160. Renewals of licenses, requirements.
- 190.165. Suspension or revocation of licenses, grounds for.
- 190.171. Aggrieved party may seek review by administrative hearing commission.
- 190.172. Settlement agreements permitted, when — written impact statement may be submitted to administrative hearing commission.
- 190.175. Records to be maintained by licensee.
- 190.185. Rules and regulations, department to adopt — procedure.
- 190.196. Employer to comply with requirements of licensure — report of charges filed against licensee, when.
- 190.246. Epinephrine autoinjector, possession and use limitations — definitions — use of device considered first aid — violations, penalty.
- 190.248. Investigations of allegations of violations, completed when — access to records.
- 190.525. Definitions.
- 190.528. License required — political subdivisions not precluded from governing operation of service or enforcing ordinances — responsibilities and restrictions on operation of stretcher van services — rules.
- 190.531. Refusal to issue or denial of renewal of licenses permitted — complaint procedure — rules — immunity from liability, when — suspension of license, when.
- 190.534. Violations, penalty — attorney general to have concurrent jurisdiction.
- 190.537. Rulemaking authority.
- 191.630. Definitions.
- 191.631. Testing for disease, consent deemed given, when — hospital to conduct testing, written policies and procedures required — notification for confirmed exposure — limitations on testing and duties of hospitals — rules.
- 321.130. Directors, qualifications — candidate filing fee, oath.
- 321.180. Treasurer's duties — file bond — make annual financial statement.
- 321.552. Sales tax authorized in certain counties for ambulance and fire protection — ballot language — special trust fund established — refunds authorized.
- 321.554. Adjustment in total operating levy of district based on sales tax revenue — general reassessment, effect of.
- 321.556. Repeal of sales tax, procedure — ballot language.
 - 1. Ambulance services to have same statutory lien rights as hospitals — recovery of lien, net proceeds to be shared with patient, when — release of claimant from liability, when.
- 190.044. Ambulance service tax from one district only (third class counties), petition.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 87.207, 87.235, 99.847, 190.044, 190.050, 190.092, 190.094, 190.100, 190.101, 190.105, 190.108, 190.109, 190.120, 190.131, 190.133, 190.142, 190.143, 190.160, 190.165, 190.171, 190.175, 190.185, 190.196, 321.130 and 321.180, RSMo, are repealed and forty-three new sections enacted in lieu thereof, to be known as sections 87.177, 87.207, 87.231, 87.235, 87.238, 99.847, 190.050, 190.051, 190.092, 190.094, 190.100, 190.101, 190.105, 190.108, 190.109, 190.120, 190.131, 190.133, 190.142, 190.143, 190.145, 190.160, 190.165, 190.171, 190.172, 190.175, 190.185, 190.196, 190.246, 190.248, 190.525, 190.528, 190.531, 190.534, 190.537, 191.630, 191.631, 321.130, 321.180, 321.552, 321.554, 321.556, and 1, to read as follows:

87.177. SERVICE RETIREMENT ALLOWANCE, ELIGIBILITY, APPLICATION, BENEFITS — SURVIVOR'S RIGHT TO SHARE OF BENEFITS — COST-OF-LIVING ALLOWANCE. — 1. Any firefighter who terminates employment with five or more years of service but less than twenty years may apply at age sixty-two for a service retirement allowance. Upon written application to the board of trustees the benefit payable shall be equal to two percent times years of service times the average final compensation, and the member shall also be repaid the total amount of the member's contribution, without interest.

2. The benefits provided in subsection 1 of this section shall be in lieu of any benefits payable pursuant to the provisions of section 87.240.

3. Any survivor of a firefighter retiring pursuant to the provisions of subsection 1 of this section shall be entitled to fifty percent of the retirement allowance of the retired member at his or her date of death.

4. Any surviving spouse of a firefighter who had five or more years of service but less than twenty years and who dies prior to application for retirement benefits payable

pursuant to this section shall be entitled to fifty percent of the retirement allowance of the member at his or her date of death payable at the date the member would have reached age sixty-two, or to the immediate refund of the member's contribution plus interest. If no surviving spouse exists, a benefit shall be payable pursuant to subdivisions (2) and (3) of subsection 1 of section 87.220, or by the immediate refund of the member's contribution plus interest.

5. Any firefighter retiring pursuant to the provisions of this section shall be entitled to receive a cost-of-living allowance of five percent per year for a maximum of five years.

87.207. COST-OF-LIVING INCREASE, HOW DETERMINED. — The following allowances due under the provisions of sections 87.120 to [87.370] **87.371** of any member who retired from service shall be increased annually, as approved by the board of trustees beginning with the first increase in the October following his or her retirement and subsequent increases in each October thereafter, at the rates designated:

- (1) With a retirement service allowance or ordinary disability allowance
 - (a) One and one-half percent per year, compounded each year, up to age sixty for those retiring with twenty to twenty-four years of service,
 - (b) Two and one-fourth percent per year, compounded each year, up to age sixty for those retiring with twenty-five to twenty-nine years of service,
 - (c) Three percent per year, compounded each year, up to age sixty for those retiring with thirty or more years of service,
 - (d) After age sixty, five percent per year for five years [or until a total maximum increase of twenty-five percent is reached];
- (2) With an accidental disability allowance, three percent per year, compounded each year, up to age sixty, then five percent per year for five years [or until a total maximum increase of twenty-five percent is reached]. [Each increase, however, is subject to a determination by the board of trustees that the consumer price index (United States Average Index) as published by the United States Department of Labor shows an increase of not less than the approved rate during the latest twelve-month period for which the index is available at date of determination. If the increase is in excess of the approved rate for any year, the excess shall be accumulated as to any retired member and increases may be granted in subsequent years subject to the maximum allowed for each full year from October following his retirement but not to exceed a total increase of twenty-five percent. If the board of trustees determines that the index has decreased for any year, the benefits of any retired member that have been increased shall be decreased but not below his initial benefit. No annual increase shall be made of less than one percent and no decrease of less than three percent except that any decrease shall be limited by the initial benefit.]

87.231. SURVIVING SPOUSE AS SPECIAL CONSULTANT TO THE BOARD, WHEN —
COMPENSATION —EFFECT ON ELIGIBILITY FOR RETIREMENT BENEFITS. — 1. In lieu of any benefits payable pursuant to section 87.230, any surviving spouse who is receiving retirement benefits, upon application to the board of trustees of the retirement system, shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging, and other state matters, for the remainder of his or her life, and upon request of the board, give opinions, and be available to give opinions in writing, or orally, in response to such request, as may be required, and for such services shall be compensated monthly, in an amount, which, when added to any monthly retirement benefits being received, shall not exceed fifty percent of the deceased member's average final compensation or five hundred twenty-five dollars, whichever is greater.

2. This compensation shall be consolidated with any other retirement benefits payable to such surviving spouse, and shall be paid in the manner and from the same fund as his

or her other retirement benefits under this chapter, and shall be treated in all aspects under the laws of this state as retirement benefits paid pursuant to this chapter.

3. The employment provided for by this section shall in no way affect any person's eligibility for retirement benefits under this chapter, or in any way have the effect of reducing retirement benefits, anything to the contrary notwithstanding.

87.235. PAYMENTS ON PROOF OF ACCIDENTAL DEATH IN SERVICE — BENEFICIARIES.

— 1. **Effective May 1, 2002**, upon the receipt of evidence and proof that the death of a member was the result of an accident or exposure at any time or place, provided that at such time or place the member was in the actual performance of the member's duty and, in the case of an exposure, while in response to an emergency call, or was acting pursuant to orders, there shall be paid in lieu of all other benefits the following benefits:

(1) A retirement allowance to the widow during the person's widowhood of [fifty] **seventy** percent of the [deceased member's average final compensation] **pay then provided by law for the highest step in the range of salary for the next title or next rank above the member's range or title held at the time of the member's death**, plus ten percent of such compensation to or for the benefit of each unmarried dependent child of the deceased member, who is either under the age of eighteen, or who is totally and permanently mentally or physically disabled and incapacitated, regardless of age, but not in excess of a total of three children, including both classes, and paid as the board of trustees in its discretion directs;

(2) If no widow benefits are payable pursuant to subdivision (1), such total allowance as would have been paid had there been a widow shall be divided among the unmarried dependent children under the age of eighteen and such unmarried children, regardless of age, who are totally and permanently mentally or physically disabled and incapacitated, and paid to or for the benefit of such children as the board of trustees in its discretion shall direct;

(3) If there is no widow, or child under the age of eighteen years, or child, regardless of age, who is totally and permanently mentally or physically disabled and incapacitated, then an amount equal to the widow's benefit shall be paid to the member's dependent father or dependent mother, as the board of trustees shall direct, to continue until remarriage or death;

(4) Any benefit payable to, or for the benefit of, a child or children under the age of eighteen years pursuant to subdivisions (1) and (2) of this section shall be paid beyond the age of eighteen years through the age of twenty-five years in such cases where the child is a full-time student at a regularly accredited college, business school, nursing school, school for technical or vocational training or university, but such benefit shall cease whenever the child ceases to be a student. A college or university shall be deemed to be regularly accredited which maintains membership in good standing in a national or regional accrediting agency recognized by any state college or university.

2. No benefits pursuant to this section shall be paid to a child over eighteen years of age who is totally and permanently mentally or physically disabled and incapacitated, if such child is a patient or ward in a public-supported institution.

3. Wherever any dependent child designated by the board of trustees to receive benefits pursuant to this section is in the care of the widow of the deceased member, the child's benefits may be paid to the widow for the child.

87.238. RETIRED FIREFIGHTERS TO ACT AS SPECIAL ADVISORS TO RETIREMENT SYSTEM, WHEN — COMPENSATION. — 1. In lieu of any benefit payable pursuant to section 87.237, any person who served as a firefighter and who is retired and receiving a retirement allowance of less than six hundred twenty-five dollars may act as a special advisor to the retirement system.

2. For the additional service as a special advisor, each retired person shall receive, in addition to the retirement allowance provided pursuant to this chapter, an additional amount, which amount, together with the retirement allowance he or she is receiving

pursuant to other provisions of this chapter, shall equal, but not exceed, six hundred twenty-five dollars. Any retirement allowance paid to a retiree pursuant to this subsection shall be withdrawn from the firefighters' retirement and relief system fund and no moneys shall be withdrawn from the general revenue fund of any city not within a county.

99.847. REIMBURSEMENT FROM SPECIAL ALLOCATION FUND FOR EMERGENCY SERVICES, WHEN — NO NEW TIF PROJECTS AUTHORIZED FOR FLOOD PLAIN AREAS IN ST. CHARLES COUNTY, APPLICABILITY OF RESTRICTION. — 1. Any district providing emergency services pursuant to chapter 190 or 321, RSMo, [upon the provision of evidence to the governing body of the municipality that direct costs incurred by such district in providing emergency services to the redevelopment area are directly attributable to the operation of redevelopment projects as these terms are defined in section 99.805, in the redevelopment area,] shall be entitled to reimbursement from the special allocation fund [for direct costs to the extent that such district can demonstrate that the increased tax revenues it receives from such projects in such areas are insufficient to fund such direct costs. However, such reimbursement shall not be less than twenty-five] **in the amount of at least fifty percent** nor more than one hundred percent of the district's tax increment.

2. Notwithstanding the provisions of sections 99.800 to 99.865, RSMo, to the contrary, no new tax increment financing project shall be authorized in any area which is within an area designated as flood plain by the Federal Emergency Management Agency and which is located in or partly within a county with a charter form of government with greater than two hundred fifty thousand inhabitants but fewer than three hundred thousand inhabitants.

3. This subsection shall not apply to tax increment financing projects or districts approved prior to July 1, 2003, and shall allow the aforementioned tax increment financing projects to modify, amend or expand such projects including redevelopment project costs by not more than forty percent of such project original projected cost including redevelopment project costs as such projects including redevelopment project costs as such projects redevelopment projects including redevelopment project costs existed as of June 30, 2003, and shall allow the aforementioned tax increment financing district to modify, amend or expand such districts by not more than five percent as such districts existed as of June 30, 2003.

190.050. ELECTION DISTRICTS, HOW ESTABLISHED — ELECTION OF DIRECTORS — DECLARATION OF CANDIDACY FILED, WHERE, WHEN. — 1. After the ambulance district has been declared organized, the declaring county commission, except in counties of the second class having more than one hundred five thousand inhabitants located adjacent to a county of the first class having a charter form of government which has a population of over nine hundred thousand inhabitants, shall divide the district into six election districts as equal in population as possible, and shall by lot number the districts from one to six inclusive. The county commission shall cause an election to be held in the ambulance district within ninety days after the order establishing the ambulance district to elect ambulance district directors. Each voter shall vote for one director from the ambulance election district in which the voter resides. The directors elected from districts one and four shall serve for a term of one year, the directors elected from districts two and five shall serve for a term of two years, and the directors from districts three and six shall serve for a term of three years; thereafter, the terms of all directors shall be three years. All directors shall serve the term to which they were elected or appointed, and until their successors are elected and qualified, except in cases of resignation or disqualification. The county commission shall reapportion the ambulance districts within sixty days after the population of the county is reported to the governor for each decennial census of the United States. Notwithstanding any other provision of law, if the number of candidates for the office of director is no greater than the number of directors to be elected, no election shall be

held, and the candidates shall assume the responsibilities of their offices at the same time and in the same manner as if they have been elected.

2. In all counties of the second class having more than one hundred five thousand inhabitants located adjacent to a county of the first class having a charter form of government which has a population of over nine hundred thousand inhabitants, the voters shall vote for six directors elected at large from within the district for a term of three years. Those directors holding office in any district in such a county on August 13, 1976, shall continue to hold office until the expiration of their terms, and their successors shall be elected from the district at large for a term of three years. In any district formed in such counties after August 13, 1976, the governing body of the county shall cause an election to be held in that district within ninety days after the order establishing the ambulance district to elect ambulance district directors. Each voter shall vote for six directors. The two candidates receiving the highest number of votes at such election shall be elected for a term of three years, the two candidates receiving the third and fourth highest number of votes shall be elected for a term of two years, the two candidates receiving the fifth and sixth highest number of votes shall be elected for a term of one year; thereafter, the term of all directors shall be three years.

3. A candidate for director of the ambulance district shall, at the time of filing, be a citizen of the United States, a qualified voter of the election district as provided in subsection 1 of this section, a resident of the [state for one year] **district for two years** next preceding the election, and shall be at least [twenty-one] **twenty-four** years of age. In an established district which is located within the jurisdiction of more than one election authority, the candidate shall file his **or her** declaration of candidacy with the secretary of the board. In all other districts, a candidate shall file [his] **a** declaration of candidacy with the county clerk of the county in which he **or she** resides. A candidate shall file a statement under oath that he **or she** possesses the required qualifications. No candidate's name shall be printed on any official ballot unless the candidate has filed a written declaration of candidacy pursuant to subsection 5 of section 115.127, RSMo. If the time between the county commission's call for a special election and the date of the election is not sufficient to allow compliance with subsection 5 of section 115.127, RSMo, the county commission shall, at the time it calls the special election, set the closing date for filing declarations of candidacy.

190.051. CHANGE IN NUMBER OF BOARD MEMBERS, WHEN — BALLOT LANGUAGE. —

1. Notwithstanding the provisions of sections 190.050 and 190.052 to the contrary, upon a motion by the board of directors in districts where there are six-member boards, and upon approval by the voters in the district, the number of directors may be increased to seven with one board member running district wide, or decreased to five or three board members. The ballot to be used for the approval of the voters to increase or decrease the number of members on the board of directors of the ambulance district shall be substantially in the following form:

Shall the number of members of the board of directors of the (Insert name of district) Ambulance District be (increased to seven members/decreased to five members/decreased to three members)?

☐ YES ☐ NO

2. If a majority of the voters voting on a proposition to increase the number of board members to seven vote in favor of the proposition, then at the next election of board members after the voters vote to increase the number of directors, the voters shall select one person to serve in addition to the existing six directors as the member who shall run district wide.

3. If a majority of the voters voting on a proposition to decrease the number of board members vote in favor of the proposition, then the county clerk shall redraw the district into the resulting number of subdistricts with equal population bases and hold elections

by subdistricts pursuant to section 190.050. Thereafter, members of the board shall be elected to serve terms of three years and until their successors are duly elected and qualified.

4. Members of the board of directors in office on the date of an election pursuant to this section to increase or decrease the number of members of the board of directors shall serve the term to which they were elected or appointed and until their successors are elected and qualified.

190.092. DEFIBRILLATORS, USE AUTHORIZED WHEN, CONDITIONS, NOTICE — GOOD FAITH IMMUNITY FROM CIVIL LIABILITY, WHEN. — 1. [For purposes of this section, "first responder" shall be defined as a person who has successfully completed an emergency first response course meeting or exceeding the national curriculum of the United States Department of Transportation and any modifications to such curricula specified by the department through rules adopted pursuant to sections 190.001 to 190.180 and who provides emergency medical care through employment by, or in association with, an emergency medical response agency. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority of this chapter, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. All rulemaking authority delegated prior to August 28, 1998, is of no force and effect and repealed as of August 28, 1998, however nothing in this section shall be interpreted to repeal or affect the validity of any rule adopted and promulgated prior to August 28, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this section shall affect the validity of any rule adopted and promulgated prior to August 28, 1998.

2. Any county, municipality or fire protection district may establish a program to allow the use of automated external defibrillators by any person properly qualified who follows medical protocol for use of the device or member of a fire, police, ambulance service, emergency medical response agency or first responder agency provided that such person has completed a course certified by the American Red Cross or American Heart Association that includes cardiopulmonary resuscitation training and demonstrated proficiency in the use of such automated external defibrillators.

3.] A person or entity who acquires an automated external defibrillator shall ensure that:

(1) Expected defibrillator users receive training by the American Red Cross or American Heart Association in cardiopulmonary resuscitation and the use of automated external defibrillators, or an equivalent nationally recognized course in defibrillator use and cardiopulmonary resuscitation;

(2) The defibrillator is maintained and tested according to the manufacturer's operational guidelines;

(3) Any person who renders emergency care or treatment on a person in cardiac arrest by using an automated external defibrillator activates the emergency medical services system as soon as possible; and

(4) Any person **or entity** that owns an automated external defibrillator that is for use outside of a health care facility shall have a physician [provide medical protocol for the use of the device] **review and approve the clinical protocol for the use of the defibrillator, review and advise regarding the training and skill maintenance of the intended users of the defibrillator and assure proper review of all situations when the defibrillator is used to render emergency care.**

[4.] 2. Any person or entity who acquires an automated external defibrillator shall notify the emergency communications district or the ambulance dispatch center of the primary provider of emergency medical services where the automated external defibrillator is to be located.

[5.] 3. Any person who has had appropriate training, including a course in cardiopulmonary resuscitation, has demonstrated a proficiency in the use of an automated external defibrillator, and who gratuitously and in good faith renders emergency care when medically appropriate by use of or provision of an automated external defibrillator, without objection of the injured victim or victims thereof, shall not be held liable for any civil damages as a result of such care or treatment, where the person acts as an ordinarily reasonable, prudent person, or with regard to a health care professional, **including the licensed physician who reviews and approves the clinical protocol**, as a reasonably prudent and careful health care provider would have acted, under the same or similar circumstances. Nothing in this section shall affect any claims brought pursuant to chapter 537 or 538, RSMo.

190.094. MINIMUM AMBULANCE STAFFING FOR CERTAIN COUNTIES (CASS, BATES, HENRY, JOHNSON AND ST. CLAIR) — In any county of the second classification containing part of a city which is located in four counties and any county bordering said county on the east and south and in any county of the third classification with a population of at least eight thousand four hundred but less than eight thousand five hundred inhabitants containing part of a lake of nine hundred fifty-eight miles of shoreline but less than one thousand miles of shoreline each ambulance, when in use as an ambulance, shall be staffed with a minimum of one emergency medical technician and one other crew member as set forth in rules adopted by the department. When transporting a patient, at least one licensed emergency medical technician, [mobile emergency medical technician,] registered nurse or physician shall be in attendance with the patient in the patient compartment at all times.

190.100. DEFINITIONS. — As used in sections 190.001 to 190.245, the following words and terms mean:

(1) "Advanced life support (ALS)", an advanced level of care as provided to the adult and pediatric patient such as defined by national curricula, and any modifications to that curricula specified in rules adopted by the department pursuant to sections 190.001 to 190.245;

(2) "Ambulance", any privately or publicly owned vehicle or craft that is specially designed, constructed or modified, staffed or equipped for, and is intended or used, maintained or operated for the transportation of persons who are sick, injured, wounded or otherwise incapacitated or helpless, or who require the presence of medical equipment being used on such individuals, but the term does not include any motor vehicle specially designed, constructed or converted for the regular transportation of persons who are disabled, handicapped, normally using a wheelchair, or otherwise not acutely ill, or emergency vehicles used within airports;

(3) "Ambulance service", a person or entity that provides emergency or nonemergency ambulance transportation and services, or both, in compliance with sections 190.001 to 190.245, and the rules promulgated by the department pursuant to sections 190.001 to 190.245;

(4) "Ambulance service area", a specific geographic area in which an ambulance service has been authorized to operate;

(5) "Basic life support (BLS)", a basic level of care, as provided to the adult and pediatric patient as defined by national curricula, and any modifications to that curricula specified in rules adopted by the department pursuant to sections 190.001 to 190.245;

(6) "Council", the state advisory council on emergency medical services;

(7) "Department", the department of health and senior services, state of Missouri;

(8) "Director", the director of the department of health and senior services or the director's duly authorized representative;

(9) "Dispatch agency", any person or organization that receives requests for emergency medical services from the public, by telephone or other means, and is responsible for dispatching emergency medical services;

(10) "Emergency", the sudden and, at the time, unexpected onset of a health condition that manifests itself by symptoms of sufficient severity that would lead a prudent layperson, possessing an average knowledge of health and medicine, to believe that the absence of immediate medical care could result in:

- (a) Placing the person's health, or with respect to a pregnant woman, the health of the woman or her unborn child, in significant jeopardy;
- (b) Serious impairment to a bodily function;
- (c) Serious dysfunction of any bodily organ or part;
- (d) Inadequately controlled pain;

(11) "Emergency medical dispatcher", a person who receives emergency calls from the public and has successfully completed an emergency medical dispatcher course, meeting or exceeding the national curriculum of the United States Department of Transportation and any modifications to such curricula specified by the department through rules adopted pursuant to sections 190.001 to 190.245;

(12) "Emergency medical response agency", any person that regularly provides a level of care that includes first response, basic life support or advanced life support, exclusive of patient transportation;

(13) "Emergency medical services for children (EMS-C) system", the arrangement of personnel, facilities and equipment for effective and coordinated delivery of pediatric emergency medical services required in prevention and management of incidents which occur as a result of a medical emergency or of an injury event, natural disaster or similar situation;

(14) "Emergency medical services (EMS) system", the arrangement of personnel, facilities and equipment for the effective and coordinated delivery of emergency medical services required in prevention and management of incidents occurring as a result of an illness, injury, natural disaster or similar situation;

(15) "Emergency medical technician", a person licensed in emergency medical care in accordance with standards prescribed by sections 190.001 to 190.245, and by rules adopted by the department pursuant to sections 190.001 to 190.245;

(16) "Emergency medical technician-basic" or "EMT-B", a person who has successfully completed a course of instruction in basic life support as prescribed by the department and is licensed by the department in accordance with standards prescribed by sections 190.001 to 190.245 and rules adopted by the department pursuant to sections 190.001 to 190.245;

(17) "Emergency medical technician-intermediate" or "EMT-I", a person who has successfully completed a course of instruction in certain aspects of advanced life support care as prescribed by the department, and is serving with an emergency medical response agency licensed in any county of the first classification without a charter form of government and with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants, any county with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants, or any county of the first classification with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants, and is licensed by the department in accordance with sections 190.001 to 190.245 and rules and regulations adopted by the department pursuant to sections 190.001 to 190.245;

[(17)] (18) "Emergency medical technician-paramedic" or "EMT-P", a person who has successfully completed a course of instruction in advanced life support care as prescribed by the department and is licensed by the department in accordance with sections 190.001 to 190.245 and rules adopted by the department pursuant to sections 190.001 to 190.245;

[(18)] (19) "Emergency services", health care items and services furnished or required to screen and stabilize an emergency which may include, but shall not be limited to, health care

services that are provided in a licensed hospital's emergency facility by an appropriate provider or by an ambulance service or emergency medical response agency;

[(19)] (20) "First responder", a person who has successfully completed an emergency first response course meeting or exceeding the national curriculum of the United States Department of Transportation and any modifications to such curricula specified by the department through rules adopted pursuant to sections 190.001 to 190.245 and who provides emergency medical care through employment by or in association with an emergency medical response agency;

[(20)] (21) "Health care facility", a hospital, nursing home, physician's office or other fixed location at which medical and health care services are performed;

[(21)] (22) "Hospital", an establishment as defined in the hospital licensing law, subsection 2 of section 197.020, RSMo, or a hospital operated by the state;

[(22)] (23) "Medical control", supervision provided by or under the direction of physicians to providers by written or verbal communications;

[(23)] (24) "Medical direction", medical guidance and supervision provided by a physician to an emergency services provider or emergency medical services system;

[(24)] (25) "Medical director", a physician licensed pursuant to chapter 334, RSMo, designated by the ambulance service or emergency medical response agency and who meets criteria specified by the department by rules pursuant to sections 190.001 to 190.245;

[(25)] (26) "Memorandum of understanding", an agreement between an emergency medical response agency or dispatch agency and an ambulance service or services within whose territory the agency operates, in order to coordinate emergency medical services;

[(26)] (27) "Patient", an individual who is sick, injured, wounded, diseased, or otherwise incapacitated or helpless, or dead, excluding deceased individuals being transported from or between private or public institutions, homes or cemeteries, and individuals declared dead prior to the time an ambulance is called for assistance;

[(27)] (28) "Person", as used in these definitions and elsewhere in sections 190.001 to 190.245, any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or fraternal organization, estate, public trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy, or any other service user or provider;

[(28)] (29) "Physician", a person licensed as a physician pursuant to chapter 334, RSMo;

[(29)] (30) "Political subdivision", any municipality, city, county, city not within a county, ambulance district or fire protection district located in this state which provides or has authority to provide ambulance service;

[(30)] (31) "Professional organization", any organized group or association with an ongoing interest regarding emergency medical services. Such groups and associations could include those representing volunteers, labor, management, firefighters, EMT-B's, nurses, EMT-P's, physicians, communications specialists and instructors. Organizations could also represent the interests of ground ambulance services, air ambulance services, fire service organizations, law enforcement, hospitals, trauma centers, communication centers, pediatric services, labor unions and poison control services;

[(31)] (32) **"Proof of financial responsibility", proof of ability to respond to damages for liability, on account of accidents occurring subsequent to the effective date of such proof, arising out of the ownership, maintenance or use of a motor vehicle in the financial amount set in rules promulgated by the department, but in no event less than the statutory minimum required for motor vehicles. Proof of financial responsibility shall be used as proof of self-insurance;**

(33) "Protocol", a predetermined, written medical care guideline, which may include standing orders;

[(32)] (34) "Regional EMS advisory committee", a committee formed within an emergency medical services (EMS) region to advise ambulance services, the state advisory council on EMS and the department;

(35) "Specialty care transportation", the transportation of a patient requiring the services of an emergency medical technician-paramedic who has received additional training beyond the training prescribed by the department. Specialty care transportation services shall be defined in writing in the appropriate local protocols for ground and air ambulance services and approved by the local physician medical director. The protocols shall be maintained by the local ambulance service and shall define the additional training required of the emergency medical technician-paramedic;

[(33)] (36) "Stabilize", with respect to an emergency, the provision of such medical treatment as may be necessary to attempt to assure within reasonable medical probability that no material deterioration of an individual's medical condition is likely to result from or occur during ambulance transportation unless the likely benefits of such transportation outweigh the risks;

[(34)] (37) "State advisory council on emergency medical services", a committee formed to advise the department on policy affecting emergency medical service throughout the state;

[(35)] (38) "State EMS medical directors advisory committee", a subcommittee of the state advisory council on emergency medical services formed to advise the state advisory council on emergency medical services and the department on medical issues;

[(36)] (39) "Trauma", an injury to human tissues and organs resulting from the transfer of energy from the environment;

[(37)] (40) "Trauma care" includes injury prevention, triage, acute care and rehabilitative services for major single system or multisystem injuries that potentially require immediate medical or surgical intervention or treatment;

[(38)] (41) "Trauma center", a hospital that is currently designated as such by the department.

190.101. STATE ADVISORY COUNCIL ON EMERGENCY MEDICAL SERVICES, MEMBERS, PURPOSE, DUTIES. — 1. There is hereby established a "State Advisory Council on Emergency Medical Services" which shall consist of [fifteen] **sixteen** members, **one of which shall be a resident of a city not within a county**. The members of the council shall be appointed by the governor with the advice and consent of the senate and shall serve terms of four years. The governor shall designate one of the members as chairperson. The chairperson may appoint subcommittees that include noncouncil members.

2. The state EMS medical directors advisory committee and the regional EMS advisory committees will be recognized as subcommittees of the state advisory council on emergency medical services.

3. The council shall have geographical representation and representation from appropriate areas of expertise in emergency medical services including volunteers, professional organizations involved in emergency medical services, EMT's, paramedics, nurses, firefighters, physicians, ambulance service administrators, hospital administrators and other health care providers concerned with emergency medical services. The regional EMS advisory committees shall serve as a resource for the identification of potential members of the state advisory council on emergency medical services.

4. The members of the council and subcommittees shall serve without compensation except that the department of health and senior services shall budget for reasonable travel expenses and meeting expenses related to the functions of the council.

5. The purpose of the council is to make recommendations to the governor, the general assembly, and the department on policies, plans, procedures and proposed regulations on how to improve the statewide emergency medical services system. The council shall advise the governor, the general assembly, and the department on all aspects of the emergency medical services system.

190.105. AMBULANCE LICENSE REQUIRED, EXCEPTIONS — OPERATION OF AMBULANCE SERVICES — SALE OR TRANSFER OF OWNERSHIP, NOTICE REQUIRED. — 1. No person, either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of the transportation of patients by ambulance in the air, upon the streets, alleys, or any public way or place of the state of Missouri unless such person holds a currently valid license from the department for an ambulance service issued pursuant to the provisions of sections 190.001 to 190.245.

2. No ground ambulance shall be operated for ambulance purposes, and no individual shall drive, attend or permit it to be operated for such purposes in the state of Missouri unless the ground ambulance is under the immediate supervision and direction of a person who is holding a currently valid Missouri license as an emergency medical technician[; except that]. Nothing in this section shall be construed to mean that a duly registered nurse or a duly licensed physician be required to hold an emergency medical technician's license. Each ambulance service is responsible for assuring that any person driving its ambulance is competent in emergency vehicle operations and has a safe driving record. **Each ground ambulance shall be staffed with at least two licensed individuals when transporting a patient, except as provided in section 190.094.**

3. No license shall be required for an ambulance service, or for the attendant of an ambulance, which:

(1) Is rendering assistance in the case of an emergency, major catastrophe or any other unforeseen event or series of events which jeopardizes the ability of the local ambulance service to promptly respond to emergencies; or

(2) Is operated from a location or headquarters outside of Missouri in order to transport patients who are picked up beyond the limits of Missouri to locations within or outside of Missouri, but no such outside ambulance shall be used to pick up patients within Missouri for transportation to locations within Missouri, except as provided in subdivision (1) of this subsection.

4. The issuance of a license [under] **pursuant to** the provisions of sections 190.001 to 190.245 shall not be construed so as to authorize any person to provide ambulance services or to operate any ambulances without a franchise in any city not within a county or in a political subdivision in any county with a population of over nine hundred thousand inhabitants, or a franchise, contract or mutual-aid agreement in any other political subdivision which has enacted an ordinance making it unlawful to do so.

5. Sections 190.001 to 190.245 shall not preclude the adoption of any law, ordinance or regulation not in conflict with such sections by any city not within a county, or at least as strict as such sections by any county, municipality or political subdivision except that no such regulations or ordinances shall be adopted by a political subdivision in a county with a population of over nine hundred thousand inhabitants except by the county's governing body.

6. In a county with a population of over nine hundred thousand inhabitants, the governing body of the county shall set the standards for all ambulance services which shall comply with subsection 5 of this section. All such ambulance services must be licensed by the department. The governing body of such county shall not prohibit a licensed ambulance service from operating in the county, as long as the ambulance service meets county standards.

7. An ambulance service or vehicle when operated for the purpose of transporting persons who are sick, injured, or otherwise incapacitated shall not be treated as a common or contract carrier under the jurisdiction of the Missouri [public service commission] **division of motor carrier and railroad safety.**

8. Sections 190.001 to 190.245 shall not apply to, nor be construed to include, any motor vehicle used by an employer for the transportation of such employer's employees whose illness or injury occurs on private property, and not on a public highway or property, nor to any person operating such a motor vehicle.

9. A political subdivision that is authorized to operate a licensed ambulance service may establish, operate, maintain and manage its ambulance service, and select and contract with a licensed ambulance service. Any political subdivision may contract with a licensed ambulance service.

10. Except as provided in subsections 5 and 6, nothing in section 67.300, RSMo, or subsection 2 of section 190.109, shall be construed to authorize any municipality or county which is located within an ambulance district or a fire protection district that is authorized to provide ambulance service to promulgate laws, ordinances or regulations related to the provision of ambulance services. This provision shall not apply to any municipality or county which operates an ambulance service established prior to August 28, 1998.

11. Nothing in section 67.300, RSMo, or subsection 2 of section 190.109 shall be construed to authorize any municipality or county which is located within an ambulance district or a fire protection district that is authorized to provide ambulance service to operate an ambulance service without a franchise in an ambulance district or a fire protection district that is authorized to provide ambulance service which has enacted an ordinance making it unlawful to do so. This provision shall not apply to any municipality or county which operates an ambulance service established prior to August 28, 1998.

12. No provider of ambulance service within the state of Missouri which is licensed by the department to provide such service shall discriminate regarding treatment or transportation of emergency patients on the basis of race, sex, age, color, religion, sexual preference, national origin, ancestry, handicap, medical condition or ability to pay.

13. No provision of this section, other than subsections 5, 6, 10 and 11 of this section, is intended to limit or supersede the powers given to ambulance districts pursuant to this chapter or to fire protection districts pursuant to chapter 321, RSMo, or to counties, cities, towns and villages pursuant to chapter 67, RSMo.

14. Upon the sale or transfer of any ground ambulance service ownership, the owner of such service shall notify the department of the change in ownership within thirty days of such sale or transfer. After receipt of such notice, the department shall conduct an inspection of the ambulance service to verify compliance with the licensure standards of sections 190.001 to 190.245.

190.108. AIR AMBULANCE LICENSES — SALE OR TRANSFER OF OWNERSHIP, NOTICE REQUIRED. — 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as the department deems necessary to be made of the applicant for an air ambulance license.

2. The department shall have the authority and responsibility to license an air ambulance service in accordance with sections 190.001 to 190.245, and in accordance with rules adopted by the department pursuant to sections 190.001 to 190.245. The department may promulgate rules relating to the requirements for an air ambulance license including, but not limited to:

- (1) Medical control plans;
- (2) Medical director qualifications;
- (3) Air medical staff qualifications;
- (4) Response and operations standards to assure that the health and safety needs of the public are met;
- (5) Standards for air medical communications;
- (6) Criteria for compliance with licensure requirements;
- (7) Records and forms;
- (8) Equipment requirements;
- (9) Five-year license renewal;
- (10) Quality improvement committees; and
- (11) Response time, patient care and transportation standards.

3. Application for an air ambulance service license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the air ambulance service meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. Upon the sale or transfer of any air ambulance service ownership, the owner of such service shall notify the department of the change in ownership within thirty days of such sale or transfer. After receipt of such notice, the department shall conduct an inspection of the ambulance service to verify compliance with the licensure standards of sections 190.001 to 190.245.

190.109. GROUND AMBULANCE LICENSE. — 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as the department deems necessary to be made of the applicant for a ground ambulance license.

2. Any person that owned and operated a licensed ambulance on December 31, 1997, shall receive an ambulance service license from the department, unless suspended, revoked or terminated, for that ambulance service area which was, on December 31, 1997, described and filed with the department as the primary service area for its licensed ambulances on August 28, 1998, provided that the person makes application and adheres to the rules and regulations promulgated by the department pursuant to sections 190.001 to 190.245.

3. The department shall issue a new ground ambulance service license to an ambulance service that is not currently licensed by the department, or is currently licensed by the department and is seeking to expand its ambulance service area, except as provided in subsection 4 of this section, to be valid for a period of five years, unless suspended, revoked or terminated, when the director finds that the applicant meets the requirements of ambulance service licensure established pursuant to sections 190.100 to 190.245 and the rules adopted by the department pursuant to sections 190.001 to 190.245. In order to be considered for a new ambulance service license, an ambulance service shall submit to the department a letter of endorsement from each ambulance district or fire protection district that is authorized to provide ambulance service, or from each municipality not within an ambulance district or fire protection district that is authorized to provide ambulance service, in which the ambulance service proposes to operate. If an ambulance service proposes to operate in unincorporated portions of a county not within an ambulance district or fire protection district that is authorized to provide ambulance service, in order to be considered for a new ambulance service license, the ambulance service shall submit to the department a letter of endorsement from the county. Any letter of endorsement **required pursuant to this section** shall verify that the political subdivision has conducted a public hearing regarding the endorsement and that the governing body of the political subdivision has adopted a resolution approving the endorsement. **The letter of endorsement shall affirmatively state that the proposed ambulance service:**

- (1) Will provide a benefit to public health that outweighs the associated costs;**
- (2) Will maintain or enhance the public's access to ambulance services;**
- (3) Will maintain or improve the public health and promote the continued development of the regional emergency medical service system;**
- (4) Has demonstrated the appropriate expertise in the operation of ambulance services; and**
- (5) Has demonstrated the financial resources necessary for the operation of the proposed ambulance service.**

4. A contract between a political subdivision and a licensed ambulance service for the provision of ambulance services for that political subdivision shall expand, without further action by the department, the ambulance service area of the licensed ambulance service to include the jurisdictional boundaries of the political subdivision. The termination of the aforementioned contract shall result in a reduction of the licensed ambulance service's ambulance service area by

removing the geographic area of the political subdivision from its ambulance service area, except that licensed ambulance service providers may provide ambulance services as are needed at and around the state fair grounds for protection of attendees at the state fair.

5. The department shall renew a ground ambulance service license if the applicant meets the requirements established pursuant to sections 190.001 to 190.245, and the rules adopted by the department pursuant to sections 190.001 to 190.245.

6. The department shall promulgate rules relating to the requirements for a ground ambulance service license including, but not limited to:

- (1) Vehicle design, specification, operation and maintenance standards;
- (2) Equipment requirements;
- (3) Staffing requirements;
- (4) Five-year license renewal;
- (5) Records and forms;
- (6) Medical control plans;
- (7) Medical director qualifications;
- (8) Standards for medical communications;
- (9) Memorandums of understanding with emergency medical response agencies that provide advanced life support;
- (10) Quality improvement committees; and
- (11) Response time, patient care and transportation standards.

7. Application for a ground ambulance service license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the ground ambulance service meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

190.120. INSURANCE, WHAT COVERAGE REQUIRED — POLICY PROVISIONS REQUIRED — TERM OF POLICY. — 1. No ambulance service license shall be issued pursuant to sections 190.001 to 190.245, nor shall such license be valid after issuance, nor shall any ambulance be operated in Missouri unless there is at all times in force and effect insurance coverage [issued by an insurance company] **or proof of financial responsibility with adequate reserves maintained** for each and every ambulance owned or operated by or for the applicant or licensee[, or unless any city not within a county which owns or operates the license has at all times sufficient self-insurance coverage] to provide for the payment of damages in an amount as prescribed in regulation:

(1) For injury to or death of individuals in accidents resulting from any cause for which the owner of [said] **such** vehicle would be liable on account of liability imposed on him **or her** by law, regardless of whether the ambulance was being driven by the owner or the owner's agent; and

(2) For the loss of or damage to the property of another, including personal property, under like circumstances.

2. The insurance policy[, or in the case of a self-insured city not within a county, proof of self-insurance,] **or proof of financial responsibility** shall be submitted by all licensees required to provide such insurance pursuant to sections 190.001 to 190.245. The insurance policy, or proof of the existence of [self-insurance of a city not within a county] **financial responsibility**, shall be submitted to the director, in such form as the director may specify, for the director's approval prior to the issuance of each ambulance service license.

3. Every insurance policy **or proof of financial responsibility document** required by the provisions of this section shall contain [or in the case of a self-insured city not within a county shall have] proof of a provision for a continuing liability thereunder to the full amount thereof, notwithstanding any recovery thereon; that the liability of the insurer shall not be affected by the insolvency or the bankruptcy of the assured; and that until the policy is revoked the insurance

company or self-insured [city not within a county] **licensee or entity** will not be relieved from liability on account of nonpayment of premium, failure to renew license at the end of the year, or any act or omission of the named assured. Such policy of insurance or self-insurance shall be further conditioned for the payment of any judgments up to the limits of [said] **such** policy, recovered against any person other than the owner, the owner's agent or employee, who may operate the same with the consent of the owner.

4. Every insurance policy or self-insured [city not within a county] **licensee or entity** as required by the provisions of this section shall extend for the period to be covered by the license applied for and the insurer shall be obligated to give not less than thirty days' written notice to the director and to the insured before any cancellation or termination thereof earlier than its expiration date, and the cancellation or other termination of any such policy shall automatically revoke and terminate the licenses issued for the ambulance service covered by such policy unless covered by another insurance policy in compliance with sections 190.001 to 190.245.

190.131. CERTIFICATION OF TRAINING ENTITIES. — 1. The department shall accredit or certify training entities for first responders, emergency medical dispatchers, emergency medical technicians-basic, **emergency medical technicians-intermediate**, and emergency medical technicians-paramedic, for a period of five years, if the applicant meets the requirements established pursuant to sections 190.001 to 190.245.

2. Such rules promulgated by the department shall set forth the minimum requirements for entrance criteria, training program curricula, instructors, facilities, equipment, medical oversight, record keeping, and reporting.

3. Application for training entity accreditation or certification shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems reasonably necessary to make a determination as to whether the training entity meets all requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. Upon receipt of such application for training entity accreditation or certification, the department shall determine whether the training entity, its instructors, facilities, equipment, curricula and medical oversight meet the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

5. Upon finding these requirements satisfied, the department shall issue a training entity accreditation or certification in accordance with rules promulgated by the department pursuant to sections 190.001 to 190.245.

6. Subsequent to the issuance of a training entity accreditation or certification, the department shall cause a periodic review of the training entity to assure continued compliance with the requirements of sections 190.001 to 190.245 and all rules promulgated pursuant to sections 190.001 to 190.245.

7. No person or entity shall hold itself out or provide training required by this section without accreditation or certification by the department.

190.133. EMERGENCY MEDICAL RESPONSE AGENCY LICENSE — LIMITATIONS. — 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as the department deems necessary to be made of the applicant for an emergency medical response agency license.

2. The department shall issue a license to any emergency medical response agency which provides advanced life support if the applicant meets the requirements established pursuant to sections 190.001 to 190.245, and the rules adopted by the department pursuant to sections 190.001 to 190.245. The department may promulgate rules relating to the requirements for an emergency medical response agency including, but not limited to:

- (1) A licensure period of five years;
- (2) Medical direction;

- (3) Records and forms; and
- (4) Memorandum of understanding with local ambulance services.

3. Application for an emergency medical response agency license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the emergency medical response agency meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. No person or entity shall hold itself out as an emergency medical response agency that provides advanced life support or provide the services of an emergency medical response agency that provides advanced life support unless such person or entity is licensed by the department.

5. Only emergency medical response agencies licensed and serving in any county of the first classification without a charter form of government and with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants, any county with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants, or any county of the first classification with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants will be licensed to provide certain ALS services with the services of EMT-Is.

6. Emergency medical response agencies functioning with the services of EMT-Is must work in collaboration with an ambulance service providing advanced life support with personnel trained to the emergency medical technician-paramedic level.

190.142. EMERGENCY MEDICAL TECHNICIAN LICENSE—RULES. — 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as it deems necessary to be made of the applicant for an emergency medical technician's license. The director may authorize investigations into criminal records in other states for any applicant.

2. The department shall issue a license to all levels of emergency medical technicians, for a period of five years, if the applicant meets the requirements established pursuant to sections 190.001 to 190.245 and the rules adopted by the department pursuant to sections 190.001 to 190.245. The department may promulgate rules relating to the requirements for an emergency medical technician including but not limited to:

- (1) Age requirements;
- (2) Education and training requirements based on respective national curricula of the United States Department of Transportation and any modification to such curricula specified by the department through rules adopted pursuant to sections 190.001 to 190.245;
- (3) Initial licensure testing requirements;
- (4) Continuing education and relicensure requirements; and
- (5) Ability to speak, read and write the English language.

3. Application for all levels of emergency medical technician license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the emergency medical technician meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. All levels of emergency medical technicians may perform only that patient care which is:

- (1) Consistent with the training, education and experience of the particular emergency medical technician; and
- (2) Ordered by a physician or set forth in protocols approved by the medical director.

5. No person shall hold themselves out as an emergency medical technician or provide the services of an emergency medical technician unless such person is licensed by the department.

6. [All patients transported in a supine position in a vehicle other than an ambulance shall receive an appropriate level of care. The department shall promulgate rules regarding the provisions of this section. This subsection shall only apply to vehicles transporting patients for a fee.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.**

190.143. TEMPORARY EMERGENCY MEDICAL TECHNICIAN LICENSE GRANTED, WHEN — LIMITATIONS — EXPIRATION. — 1. Notwithstanding any other provisions of law, the department may grant a ninety-day temporary emergency medical technician license to all levels of emergency medical technicians who meet the following:

(1) Can demonstrate that they have, or will have employment requiring an emergency medical technician license;

(2) **Are not currently licensed as an emergency medical technician in Missouri** or have been licensed as an emergency medical technician in Missouri and fingerprints need to be submitted to the Federal Bureau of Investigation to verify the existence or absence of a criminal history, or they are currently licensed and the license will expire before a verification can be completed of the existence or absence of a criminal history;

(3) Have submitted a complete application upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245;

(4) Have not been disciplined pursuant to sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245;

(5) Meet all the requirements of rules promulgated pursuant to sections 190.001 to 190.245.

2. A temporary emergency medical technician license shall only authorize the license to practice while under the immediate supervision of a licensed emergency medical technician-basic, emergency medical technician-paramedic, registered nurse or physician who is currently licensed, without restrictions, to practice in Missouri.

3. A temporary emergency medical technician license shall automatically expire either ninety days from the date of issuance or upon the issuance of a five-year emergency medical technician license.

190.145. LAPSE OF LICENSE, REQUEST TO RETURN TO ACTIVE STATUS, PROCEDURE. — Any licensee allowing a license to lapse may within two years of the lapse request that their license be returned to active status by notifying the department in advance of such intention, and submit a complete application upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. If the licensee meets all the requirements for relicensure, the department shall issue a new emergency medical technician license to the licensee.

190.160. RENEWALS OF LICENSES, REQUIREMENTS. — The renewal of any license shall require conformance with sections 190.001 to 190.245 **and sections 190.525 to 190.537**, and rules adopted by the department pursuant to sections 190.001 to 190.245 **and sections 190.525 to 190.537**.

190.165. SUSPENSION OR REVOCATION OF LICENSES, GROUNDS FOR. — 1. The department may refuse to issue or deny renewal of any certificate, permit or license required pursuant to sections 190.100 to 190.245 for failure to comply with the provisions of [this act]

sections 190.100 to 190.245 or any lawful regulations promulgated by the department to implement its provisions as described in subsection 2 of this section. The department shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate, permit or license required by sections 190.100 to 190.245 or any person who has failed to renew or has surrendered his or her certificate, permit or license for failure to comply with the provisions of sections 190.100 to 190.245 or any lawful regulations promulgated by the department to implement such sections. Those regulations shall be limited to the following:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any activity licensed or regulated by sections 190.100 to 190.245;

(2) Being finally adjudicated and found guilty, or having entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any activity licensed or regulated pursuant to sections 190.100 to 190.245, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate, permit or license issued pursuant to sections 190.100 to 190.245 or in obtaining permission to take any examination given or required pursuant to sections 190.100 to 190.245;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any activity licensed or regulated by sections 190.100 to 190.245;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 190.100 to 190.245, or of any lawful rule or regulation adopted by the department pursuant to sections 190.100 to 190.245;

(7) Impersonation of any person holding a certificate, permit or license or allowing any person to use his or her certificate, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any activity regulated by sections 190.100 to 190.245 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) For an individual being finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any activity licensed or regulated by sections 190.100 to 190.245 who is not licensed and currently eligible to practice pursuant to sections 190.100 to 190.245;

(11) Issuance of a certificate, permit or license based upon a material mistake of fact;

(12) Violation of any professional trust or confidence;

(13) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(14) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(15) Refusal of any applicant or licensee to cooperate with the department of health and senior services during any investigation;

(16) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public;

(17) Repeated negligence in the performance of the functions or duties of any activity licensed or regulated by sections 190.100 to 190.245.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the department may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the department deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate or permit.

4. An individual whose license has been revoked shall wait one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the department after compliance with all the requirements of sections 190.100 to 190.245 relative to the licensing of an applicant for the first time. **Any individual whose license has been revoked twice within a ten-year period shall not be eligible for relicensure.**

5. The department may notify the proper licensing authority of any other state in which the person whose license was suspended or revoked was also licensed of the suspension or revocation.

6. Any person, organization, association or corporation who reports or provides information to the department pursuant to the provisions of sections 190.100 to 190.245 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

7. The department of health and senior services may suspend any certificate, permit or license required pursuant to sections 190.100 to 190.245 simultaneously with the filing of the complaint with the administrative hearing commission as set forth in subsection 2 of this section, if the department finds that there is an imminent threat to the public health. The notice of suspension shall include the basis of the suspension and notice of the right to appeal such suspension. The licensee may appeal the decision to suspend the license, certificate or permit to the department. The appeal shall be filed within ten days from the date of the filing of the complaint. A hearing shall be conducted by the department within ten days from the date the appeal is filed. The suspension shall continue in effect until the conclusion of the proceedings, including review thereof, unless sooner withdrawn by the department, dissolved by a court of competent jurisdiction or stayed by the administrative hearing commission.

190.171. AGGRIEVED PARTY MAY SEEK REVIEW BY ADMINISTRATIVE HEARING COMMISSION. — Any person aggrieved by an official action of the department of health and senior services affecting the licensed status of a person [under] **pursuant to** the provisions of sections 190.001 to 190.245 **and sections 190.525 to 190.537**, including the refusal to grant, the grant, the revocation, the suspension, or the failure to renew a license, may seek a determination thereon by the administrative hearing commission pursuant to the provisions of section 621.045, RSMo, and it shall not be a condition to such determination that the person aggrieved seek a reconsideration, a rehearing, or exhaust any other procedure within the department of health and senior services or the department of social services.

190.172. SETTLEMENT AGREEMENTS PERMITTED, WHEN — WRITTEN IMPACT STATEMENT MAY BE SUBMITTED TO ADMINISTRATIVE HEARING COMMISSION. — **Notwithstanding the provisions of subdivision (3) of subsection 3 of section 621.045, RSMo, to the contrary, if no contested case has been filed against the licensee, the agency shall submit a copy of the settlement agreement signed by all of the parties within fifteen days after signature to the administrative hearing commission for determination that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee. Any person who is directly harmed by the specific conduct for which the discipline is sought may submit a written impact statement to the administrative hearing commission for consideration in connection with the commission's review of the settlement agreement.**

190.175. RECORDS TO BE MAINTAINED BY LICENSEE. — 1. Each ambulance service licensee or emergency medical response agency licensee shall maintain accurate records, which contain information concerning the care and, if applicable, the transportation of each patient.

2. Records will be retained by the ambulance service licensees and emergency medical response agency licensees for five years, readily available for inspection by the department, notwithstanding transfer, sale or discontinuance of the ambulance services or business.

3. [An ambulance] **A patient care** report, approved by the department, shall be completed for each ambulance run on which are entered pertinent remarks by the emergency medical technician, **registered nurse or physician** and such other items as specified by rules promulgated by the department.

4. **A written or electronic patient care document shall be completed and given to the ambulance service personnel by the health care facility when a patient is transferred between health care facilities. Such patient care record shall contain such information pertinent to the continued care of the patient as well as the health and safety of the ambulance service personnel during the transport. Nothing in this section shall be construed as to limit the reporting requirements established in federal law relating to the transfer of patients between health care facilities.**

5. Such records shall be available for inspection by the department at any reasonable time during business hours.

190.185. RULES AND REGULATIONS, DEPARTMENT TO ADOPT — PROCEDURE. — The department shall adopt, amend, promulgate, and enforce such rules, regulations and standards with respect to the provisions of this chapter as may be designed to further the accomplishment of the purpose of this law in promoting state-of-the-art emergency medical services in the interest of public health, safety and welfare. When promulgating such rules and regulations, the department shall consider the recommendations of the state advisory council on emergency medical services. [No] **Any rule or portion of a rule promulgated pursuant to the authority of sections 190.001 to 190.245 or sections 190.525 to 190.537 shall become effective [unless it has been promulgated pursuant to the provisions of chapter 536, RSMo] only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.**

190.196. EMPLOYER TO COMPLY WITH REQUIREMENTS OF LICENSURE — REPORT OF CHARGES FILED AGAINST LICENSEE, WHEN. — 1. No employer shall knowingly employ or permit any employee to perform any services for which a license, certificate or other authorization is required by sections 190.001 to 190.245, or by rules adopted pursuant to sections 190.001 to 190.245, unless and until the person so employed possesses all licenses, certificates or authorizations that are required.

2. Any person or entity that employs or supervises a person's activities as a first responder [or], emergency medical dispatcher, **emergency medical technician-basic, emergency medical technician-paramedic, registered nurse or physician** shall cooperate with the department's efforts to monitor and enforce compliance by those individuals subject to the requirements of sections 190.001 to 190.245.

3. **Any person or entity who employs individuals licensed by the department pursuant to sections 190.001 to 190.245 shall report to the department within seventy-two hours of their having knowledge of any charges filed against a licensee in their employ for possible criminal action involving the following felony offenses:**

(1) Child abuse or sexual abuse of a child;

(2) Crimes of violence; or

(3) Rape or sexual abuse.

4. Any licensee who has charges filed against him or her for the felony offenses in subsection 3 of this section shall report such an occurrence to the department within seventy-two hours of the charges being filed.

5. The department will monitor these reports for possible licensure action authorized pursuant to section 190.165.

190.246. EPINEPHRINE AUTOINJECTOR, POSSESSION AND USE LIMITATIONS — DEFINITIONS—USE OF DEVICE CONSIDERED FIRST AID—VIOLATIONS,PENALTY.— 1. As used in this section, the following terms shall mean:

(1) "Eligible person, firm, organization or other entity", an ambulance service or emergency medical response agency, a certified first responder, emergency medical technical-basic or emergency medical technician paramedic who is employed by, or an enrolled member, person, firm, organization or entity designated by, rule of the department of health and senior services in consultation with other appropriate agencies. All such eligible persons, firms, organizations or other entities shall be subject to the rules promulgated by the director of the department of health and senior services;

(2) "Emergency health care provider":

(a) A physician licensed pursuant to chapter 334, RSMo, with knowledge and experience in the delivery of emergency care; or

(b) A hospital licensed pursuant to chapter 197, RSMo, that provides emergency care.

2. Possession and use of epinephrine auto-injector devices shall be limited as follows:

(1) No person shall use an epinephrine auto-injector device unless such person has successfully completed a training course in the use of epinephrine auto-injector devices approved by the director of the department of health and senior services. Nothing in this section shall prohibit the use of an epinephrine auto-injector device:

(a) By a health care professional licensed or certified by this state who is acting within the scope of his or her practice; or

(b) By a person acting pursuant to a lawful prescription;

(2) Every person, firm, organization and entity authorized to possess and use epinephrine auto-injector devices pursuant to this section shall use, maintain and dispose of such devices in accordance with the rules of the department;

(3) Every use of an epinephrine auto-injector device pursuant to this section shall immediately be reported to the emergency health care provider.

3. (1) Use of an epinephrine auto-injector device pursuant to this section shall be considered first aid or emergency treatment for the purpose of any law relating to liability.

(2) Purchase, acquisition, possession or use of an epinephrine auto-injector device pursuant to this section shall not constitute the unlawful practice of medicine or the unlawful practice of a profession.

(3) Any person otherwise authorized to sell or provide an epinephrine auto-injector device may sell or provide it to a person authorized to possess it pursuant to this section.

4. Any person, firm, organization or entity that violates the provisions of this section is guilty of a class B misdemeanor.

190.248. INVESTIGATIONS OF ALLEGATIONS OF VIOLATIONS, COMPLETED WHEN — ACCESS TO RECORDS. — 1. All investigations conducted in response to allegations of violations of sections 190.001 to 190.245 shall be completed within six months of receipt of the allegation.

2. In the course of an investigation the department shall have access to all records directly related to the alleged violations from persons or entities licensed pursuant to this chapter or chapter 197 or 198, RSMo.

3. Any department investigations that involve other administrative or law enforcement agencies shall be completed within six months of notification and final determination by such administrative or law enforcement agencies.

190.525. DEFINITIONS. — As used in sections 190.525 to 190.537, the following terms mean:

- (1) "Department", the department of health and senior services;
- (2) "Director", the director of the department of health and senior services or the director's duly authorized representative;
- (3) "Passenger", an individual needing transportation in a supine position who does not require medical monitoring, observation, aid, care or treatment during transportation, with the exception of self-administered oxygen as ordered by a physician during transportation;
- (4) "Patient", an individual who is sick, injured, wounded, diseased, or otherwise incapacitated or helpless, and who may require medical monitoring, medical observation, aid, care or treatment during transportation, with the exception of self-administered oxygen as ordered by a physician;
- (5) "Person", any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or fraternal organization, estate, public trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy, or any other service user or provider;
- (6) "Stretcher van", any vehicle other than an ambulance designed and equipped to transport passengers in a supine position. No such vehicle shall be used to provide medical services;
- (7) "Stretcher van service", any person or agency that provides stretcher van transportation to passengers who are confined to stretchers and whose conditions are such that they do not need and are not likely to need medical attention during transportation.

190.528. LICENSE REQUIRED — POLITICAL SUBDIVISIONS NOT PRECLUDED FROM GOVERNING OPERATION OF SERVICE OR ENFORCING ORDINANCES — RESPONSIBILITIES AND RESTRICTIONS ON OPERATION OF STRETCHER VAN SERVICES — RULES. — **1.** No person, either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of the transportation of passengers by stretcher van upon the streets, alleys, or any public way or place of the state of Missouri unless such person holds a currently valid license from the department for a stretcher van service issued pursuant to the provisions of sections 190.525 to 190.537 notwithstanding any provisions of chapter 390 or 622, RSMo, to the contrary.

2. Subsection 1 of this section shall not preclude any political subdivision that is authorized to operate a licensed ambulance service from adopting any law, ordinance or regulation governing the operation of stretcher vans that is at least as strict as the minimum state standards, and no such regulations or ordinances shall prohibit stretcher van services that were legally picking up passengers within a political subdivision prior to January 1, 2002, from continuing to operate within that political subdivision and no political subdivision which did not regulate or prohibit stretcher van services as of January 1, 2002, shall implement unreasonable regulations or ordinances to prevent the establishment and operation of such services.

3. In any county with a charter form of government and with more than one million inhabitants, the governing body of the county shall set reasonable standards for all stretcher van services which shall comply with subsection 2 of this section. All such

stretcher van services must be licensed by the department. The governing body of such county shall not prohibit a licensed stretcher van service from operating in the county, as long as the stretcher van service meets county standards.

4. Nothing shall preclude the enforcement of any laws, ordinances or regulations of any political subdivision authorized to operate a licensed ambulance service that were in effect prior to August 28, 2001.

5. Stretcher van services may transport passengers.

6. A stretcher van shall be staffed by at least two individuals when transporting passengers.

7. The crew of the stretcher van is required to immediately contact the appropriate ground ambulance service if a passenger's condition deteriorates.

8. Stretcher van services shall not transport patients, persons currently admitted to a hospital or persons being transported to a hospital for admission or emergency treatment.

9. The department of health and senior services shall promulgate regulations, including but not limited to adequate insurance, on-board equipment, vehicle staffing, vehicle maintenance, vehicle specifications, vehicle communications, passenger safety and records and reports.

10. The department of health and senior services shall issue service licenses for a period of no more than five years for each service meeting the established rules.

11. Application for a stretcher van license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.525 to 190.537. The application form shall contain such information as the department deems necessary to make a determination as to whether the stretcher van agency meets all the requirements of sections 190.525 to 190.537 and rules promulgated pursuant to sections 190.525 to 190.537. The department shall conduct an inspection of the stretcher van service to verify compliance with the licensure standards of sections 190.525 to 190.537.

12. Upon the sale or transfer of any stretcher van service ownership, the owner of the stretcher van service shall notify the department of the change in ownership within thirty days prior to the sale or transfer. The department shall conduct an inspection of the stretcher van service to verify compliance with the licensure standards of sections 190.525 to 190.537.

13. Ambulance services licensed pursuant to this chapter or any rules promulgated by the department of health and senior services pursuant to this chapter may provide stretcher van and wheel chair transportation services pursuant to sections 190.525 to 190.537.

14. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

190.531. REFUSAL TO ISSUE OR DENIAL OF RENEWAL OF LICENSES PERMITTED — COMPLAINT PROCEDURE — RULES — IMMUNITY FROM LIABILITY, WHEN — SUSPENSION OF LICENSE, WHEN. — 1. The department may refuse to issue or deny renewal of any license required pursuant to sections 190.525 to 190.537 for failure to comply with the provisions of sections 190.525 to 190.537 or any lawful regulations promulgated by the department to implement the provisions of sections 190.525 to 190.537. The department shall notify the applicant in writing of the reasons for the refusal and shall advise the

applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 190.525 to 190.537 or any person who has failed to renew or has surrendered his or her license for failure to comply with the provisions of sections 190.525 to 190.537 or any lawful regulations promulgated by the department to implement such sections. Those regulations shall be limited to the following:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any activity licensed or regulated by sections 190.525 to 190.537;

(2) Being finally adjudicated and found guilty, or having entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any activity licensed or regulated pursuant to sections 190.525 to 190.537, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate, permit or license issued pursuant to sections 190.525 to 190.537 or in obtaining permission to take any examination given or required pursuant to sections 190.537 to 190.540;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any activity licensed or regulated by sections 190.525 to 190.537;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 190.525 to 190.537, or of any lawful rule or regulation adopted by the department pursuant to sections 190.525 to 190.537;

(7) Impersonation of any person holding a license or allowing any person to use his or her license;

(8) Disciplinary action against the holder of a license or other right to practice any activity regulated by sections 190.525 to 190.537 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) For an individual, being finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Issuance of a license based upon a material mistake of fact;

(11) Violation of any professional trust or confidence;

(12) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(13) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(14) Refusal of any applicant or licensee, to cooperate with the department of health and senior services during any investigation;

(15) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public;

(16) Repeated negligence in the performance of the functions or duties of any activity licensed by this chapter.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, as provided in subsection 2 of this

section, for disciplinary action are met, the department may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the department deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license.

4. An individual whose license has been revoked shall wait one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the department after compliance with all the requirements of sections 190.525 to 190.537 relative to the licensing of an applicant for the first time.

5. The department may notify the proper licensing authority of any other state in which the person whose license was suspended or revoked was also licensed, of the suspension or revocation.

6. Any person, organization, association or corporation who reports or provides information to the department pursuant to the provisions of sections 190.525 to 190.537 and who does so in good faith and without negligence shall not be subject to an action for civil damages as a result thereof.

7. The department of health and senior services may suspend any license required pursuant to sections 190.525 to 190.537 simultaneously with the filing of the complaint with the administrative hearing commission as set forth in subsection 2 of this section, if the department finds that there is an imminent threat to the public health. The notice of suspension shall include the basis of the suspension and notice of the right to appeal such suspension. The licensee may appeal the decision to suspend the license to the department. The appeal shall be filed within ten days from the date of the filing of the complaint. A hearing shall be conducted by the department within ten days from the date the appeal is filed. The suspension shall continue in effect until the conclusion of the proceedings, including review thereof, unless sooner withdrawn by the department, dissolved by a court of competent jurisdiction or stayed by the administrative hearing commission.

190.534. VIOLATIONS, PENALTY — ATTORNEY GENERAL TO HAVE CONCURRENT JURISDICTION. — 1. Any person violating, or failing to comply with, the provisions of section 190.525 to 190.537 is guilty of a class B misdemeanor.

2. Each day that any violation of, or failure to comply with, sections 190.525 to 190.537 is committed or permitted to continue shall constitute a separate and distinct offense, and shall be punishable as a separate offense pursuant to this section; but the court may, in appropriate cases, stay the cumulation of penalties.

3. The attorney general shall have concurrent jurisdiction with any and all prosecuting attorneys to prosecute persons in violation of sections 190.525 to 190.537, and the attorney general or prosecuting attorney may institute injunctive proceedings against any person operating in violation of sections 190.525 to 190.537.

190.537. RULEMAKING AUTHORITY. — Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created pursuant to the authority of sections 190.525 to 190.537 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

191.630. DEFINITIONS. — As used in sections 191.630 and 191.631, the following terms mean:

(1) "Care provider", a person who is employed as an emergency medical care provider, firefighter, or police officer;

(2) "Contagious or infectious disease", hepatitis in any form and any other communicable disease as defined in section 192.800, RSMo, except AIDS or HIV infection as defined in section 191.650, determined to be life-threatening to a person exposed to the disease as established by rules adopted by the department, in accordance with guidelines of the Centers for Disease Control and Prevention of the Department of Health and Human Services;

(3) "Department", the Missouri department of health and senior services;

(4) "Emergency medical care provider", a licensed or certified person trained to provide emergency and nonemergency medical care as a first responder, EMT-B, or EMT-P as defined in section 190.100, RSMo, or other certification or licensure levels adopted by rule of the department;

(5) "Exposure", a specific eye, mouth, other mucous membrane, nonintact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties;

(6) "HIV", the same meaning as defined in section 191.650;

(7) "Hospital", the same meaning as defined in section 197.020, RSMo.

191.631. TESTING FOR DISEASE, CONSENT DEEMED GIVEN, WHEN — HOSPITAL TO CONDUCT TESTING, WRITTEN POLICIES AND PROCEDURES REQUIRED — NOTIFICATION FOR CONFIRMED EXPOSURE — LIMITATIONS ON TESTING AND DUTIES OF HOSPITALS — RULES.

— 1. (1) Notwithstanding any other law to the contrary, if a care provider sustains an exposure from a person while rendering emergency health care services, the person to whom the care provider was exposed is deemed to consent to a test to determine if the person has a contagious or infectious disease and is deemed to consent to notification of the care provider of the results of the test, upon submission of an exposure report by the care provider to the hospital where the person is delivered by the care provider.

(2) The hospital where the person is delivered shall conduct the test. The sample and test results shall only be identified by a number and shall not otherwise identify the person tested.

(3) A hospital shall have written policies and procedures for notification of a care provider pursuant to this section. The policies and procedures shall include designation of a representative of the care provider to whom notification shall be provided and who shall, in turn, notify the care provider. The identity of the designated representative of the care provider shall not be disclosed to the person tested. The designated representative shall inform the hospital of those parties who receive the notification, and following receipt of such information and upon request of the person tested, the hospital shall inform the person of the parties to whom notification was provided.

2. If a person tested is diagnosed or confirmed as having a contagious or infectious disease pursuant to this section, the hospital shall notify the care provider or the designated representative of the care provider who shall then notify the care provider.

3. The notification to the care provider shall advise the care provider of possible exposure to a particular contagious or infectious disease and recommend that the care provider seek medical attention. The notification shall be provided as soon as is reasonably possible following determination that the individual has a contagious or infectious disease. The notification shall not include the name of the person tested for the contagious or infectious disease unless the person consents. If the care provider who sustained an exposure determines the identity of the person diagnosed or confirmed as having a contagious or infectious disease, the identity of the person shall be confidential information and shall not be disclosed by the care provider to any other individual unless a specific written release obtained by the person diagnosed with or confirmed as having a contagious or infectious disease.

4. This section does not require or permit, unless otherwise provided, a hospital to administer a test for the express purpose of determining the presence of a contagious or

infectious disease; except that testing may be performed if the person consents and if the requirements of this section are satisfied.

5. This section does not preclude a hospital from providing notification to a care provider under circumstances in which the hospital's policy provides for notification of the hospital's own employees of exposure to a contagious or infectious disease that is not life-threatening if the notice does not reveal a patient's name, unless the patient consents.

6. A hospital participating in good faith in complying with the provisions of this section is immune from any liability, civil or criminal, which may otherwise be incurred or imposed.

7. A hospital's duty of notification pursuant to this section is not continuing but is limited to diagnosis of a contagious or infectious disease made in the course of admission, care, and treatment following the rendering of health care services to which notification pursuant to this section applies.

8. A hospital that performs a test in compliance with this section or that fails to perform a test authorized pursuant to this section is immune from any liability, civil or criminal, which may otherwise be incurred or imposed.

9. A hospital has no duty to perform the test authorized.

10. The department shall adopt rules to implement this section. The department may determine by rule the contagious or infectious diseases for which testing is reasonable and appropriate and which may be administered pursuant to this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

11. The employer of a care provider who sustained an exposure pursuant to this section shall pay the costs of testing for the person who is the source of the exposure and of the testing of the care provider if the exposure was sustained during the course of employment.

321.130. DIRECTORS, QUALIFICATIONS — CANDIDATE FILING FEE, OATH. — 1. A person, to be qualified to serve as a director, shall be a voter of the district at least two years [prior to his] **before the** election or appointment and be over the age of twenty-five years; except as provided in subsections 2 and 3 of this section. Nominations and declarations of candidacy shall be filed at the headquarters of the fire protection district by paying a ten dollar filing fee and filing a statement under oath that such person possesses the required qualifications.

2. In any fire protection district located in more than one county one of which is a first class county without a charter form of government having a population of more than one hundred ninety-eight thousand and not adjoining any other first class county or located wholly within a first class county as described herein, a resident shall have been a resident of the district for more than one year to be qualified to serve as a director.

3. In any fire protection district located in a county of the third or fourth classification, a person to be qualified to serve as a director shall be over the age of twenty-five years and shall be a voter of the [county in which the] district [is located] for more than two years [prior to his] **before the** election or appointment, except that for the first board of directors in such district, a person need only be a voter of the [county in which the] district [is located] for one year [prior to his] **before the** election or appointment.

4. A person desiring to become a candidate for the first board of directors of the proposed district shall pay the sum of five dollars as a filing fee to the treasurer of the county and shall file with the election authority a statement under oath that [he] **such person** possesses all of the qualifications set out in this chapter for a director of a fire protection district. Thereafter, such candidate shall have [his] **the candidate's** name placed on the ballot as a candidate for director.

321.180. TREASURER'S DUTIES — FILE BOND — MAKE ANNUAL FINANCIAL STATEMENT. — The treasurer shall keep strict and accurate accounts of all money received by

and disbursed for and on behalf of the district in permanent records. He shall file with the clerk of the court, at the expense of the district, a corporate fidelity bond in an amount to be determined by the board for not less than five thousand dollars, conditioned on the faithful performance of the duties of his office. He shall file in the office of the county clerk of each county in which all or part of the district lies a detailed financial statement for the preceding fiscal year of the district on behalf of the board, on or before April first of the following year. [The fiscal year of the board shall be the same as the calendar year, beginning January first of each year and ending December thirty-first of the same year.]

321.552. SALES TAX AUTHORIZED IN CERTAIN COUNTIES FOR AMBULANCE AND FIRE PROTECTION — BALLOT LANGUAGE — SPECIAL TRUST FUND ESTABLISHED — REFUNDS AUTHORIZED. — 1. Except in any county of the first classification with over two hundred thousand inhabitants, or any county of the first classification without a charter form of government and with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants; or any county of the first classification without a charter form of government and with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants; or any county with a charter form of government with over one million inhabitants; or any county with a charter form of government with over two hundred eighty thousand inhabitants but less than three hundred thousand inhabitants, the governing body of any ambulance or fire protection district may impose a sales tax in an amount up to one-half of one percent on all retail sales made in such ambulance or fire protection district which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo, provided that such sales tax shall be accompanied by a reduction in the district's tax rate as defined in section 137.073, RSMo. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no sales tax imposed pursuant to the provisions of this section shall be effective unless the governing body of the ambulance or fire protection district submits to the voters of such ambulance or fire protection district, at a municipal or state general, primary or special election, a proposal to authorize the governing body of the ambulance or fire protection district to impose a tax pursuant to this section.

2. The ballot of submission shall contain, but need not be limited to, the following language:

"Shall (insert name of ambulance or fire protection district) impose a sales tax of (insert amount up to one-half) of one percent for the purpose of providing revenues for the operation of the (insert name of ambulance or fire protection district) and the total property tax levy on properties in the (insert name of the ambulance or fire protection district) shall be reduced annually by an amount which reduces property tax revenues by an amount equal to fifty percent of the previous year's revenue collected from this sales tax?

☐ Yes

☐ No

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

3. If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the sales tax authorized in this section shall be in effect and the governing body of the ambulance or fire protection district shall lower the level of its tax rate by an amount which reduces property tax revenues by an amount equal to fifty percent of the amount of sales tax collected in the preceding year. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the ambulance or fire protection district shall not impose the sales tax authorized in this section unless and until the governing body of such ambulance or fire protection district resubmits a proposal to authorize the governing body of the ambulance or fire

protection district to impose the sales tax authorized by this section and such proposal is approved by a majority of the qualified voters voting thereon.

4. All revenue received by a district from the tax authorized pursuant to this section shall be deposited in a special trust fund, and be used solely for the purposes specified in the proposal submitted pursuant to this section for so long as the tax shall remain in effect.

5. All sales taxes collected by the director of revenue pursuant to this section, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "Ambulance or Fire Protection District Sales Tax Trust Fund". The moneys in the ambulance or fire protection district sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust and the amount collected in each district imposing a sales tax pursuant to this section, and the records shall be open to inspection by officers of the county and to the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the governing body of the district which levied the tax; such funds shall be deposited with the board treasurer of each such district.

6. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credit any district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such district. If any district abolishes the tax, the district shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such district, the director of revenue shall remit the balance in the account to the district and close the account of that district. The director of revenue shall notify each district of each instance of any amount refunded or any check redeemed from receipts due the district.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to this section.

321.554. ADJUSTMENT IN TOTAL OPERATING LEVY OF DISTRICT BASED ON SALES TAX REVENUE — GENERAL REASSESSMENT, EFFECT OF. — 1. When the revenue from the ambulance or fire protection district sales tax is collected for distribution pursuant to section 321.552, the board of the ambulance or fire protection district, after determining its budget for the year pursuant to section 67.010, RSMo, and the rate of levy needed to produce the required revenue and after making any other adjustments to the levy that may be required by any other law, shall reduce the total operating levy of the district in an amount sufficient to decrease the revenue it would have received therefrom by an amount equal to fifty percent of the previous fiscal year's sales tax receipts. Loss of revenue, due to a decrease in the assessed valuation of real property located within the ambulance or fire protection district as a result of general reassessment, and from state-assessed railroad and utility distributable property based upon the previous fiscal year's receipts shall be considered in lowering the rate of levy to comply with this section in the year of general reassessment and in each subsequent year. In the event that in the immediately preceding year the ambulance or fire protection district actually received more or less sales tax revenue than estimated, the ambulance or fire protection district board may adjust its operating levy for the current year to reflect such increase or decrease. The director of revenue shall certify the amount payable from the ambulance

or fire protection district sales tax trust fund to the general revenue fund to the state treasurer.

2. Except that, in the first year in which any sales tax is collected pursuant to section 321.552, the collector shall not reduce the tax rate as defined in section 137.073, RSMo.

3. In a year of general reassessment, as defined by section 137.073, RSMo, or assessment maintenance as defined by section 137.115, RSMo, in which an ambulance or fire protection district in reliance upon the information then available to it relating to the total assessed valuation of such ambulance or fire protection district revises its property tax levy pursuant to section 137.073 or 137.115, RSMo, and it is subsequently determined by decisions of the state tax commission or a court pursuant to sections 138.430 to 138.433, RSMo, or due to clerical errors or corrections in the calculation or recordation of assessed valuations that the assessed valuation of such ambulance or fire protection district has been changed, and but for such change the ambulance or fire protection district would have adopted a different levy on the date of its original action, then the ambulance or fire protection district may adjust its levy to an amount to reflect such change in assessed valuation, including, if necessary, a change in the levy reduction required by this section to the amount it would have levied had the correct assessed valuation been known to it on the date of its original action, provided:

(1) The ambulance or fire protection district first levies the maximum levy allowed without a vote of the people by article X, section 11(b) of the constitution; and

(2) The ambulance or fire protection district first adopts the tax rate ceiling otherwise authorized by other laws of this state; and

(3) The levy adjustment or reduction may include a one-time correction to recoup lost revenues the ambulance or fire protection district was entitled to receive during the prior year.

321.556. REPEAL OF SALES TAX, PROCEDURE — BALLOT LANGUAGE. — 1. The governing body of any ambulance or fire protection district, when presented with a petition signed by at least twenty percent of the registered voters in the ambulance or fire protection district that voted in the last gubernatorial election, calling for an election to repeal the tax pursuant to section 321.552, shall submit the question to the voters using the same procedure by which the imposition of the tax was voted. The ballot of submission shall be in substantially the following form:

"Shall (insert name of ambulance or fire protection district) repeal the (insert amount up to one-half) of one percent sales tax now in effect in the (insert name of ambulance or fire protection district) and reestablish the property tax levy in the district to the rate in existence prior to the enactment of the sales tax?"

☐ Yes ☐ No

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

2. If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of repeal, that repeal shall become effective December thirty-first of the calendar year in which such repeal was approved.

SECTION 1. AMBULANCE SERVICES TO HAVE SAME STATUTORY LIEN RIGHTS AS HOSPITALS — RECOVERY OF LIEN, NET PROCEEDS TO BE SHARED WITH PATIENT, WHEN — RELEASE OF CLAIMANT FROM LIABILITY, WHEN. — 1. As used in this section, the following terms mean:

(1) "Claim", a claim of a patient for:

(a) Damages from a tort-feasor; or

(b) Benefits from an insurance carrier;

(2) "Insurance carrier", any person, firm, corporation, association or aggregation of persons conducting an insurance business pursuant to chapter 375, 376, 377, 378, 379, 380, 381, or 383, RSMo;

(3) "Patient", any person to whom an ambulance service delivers treatment, care, or transportation for sickness or injury caused by a tort-feasor from whom such person seeks damages or any insurance carrier which has insured such tort-feasor.

2. Ambulance services shall have the same rights granted to hospitals in sections 430.230 to 430.250, RSMo.

3. If the liens of such ambulance services or hospitals exceed fifty percent of the amount due the patient, every ambulance service or hospital giving notice of its lien, as aforesaid, shall share in up to fifty percent of the net proceeds due the patient, in the proportion that each claim bears to the total amount of all other liens of ambulance services or hospitals. "Net proceeds", as used in this section, means the amount remaining after the payment of contractual attorney fees, if any, and other expenses of recovery.

4. In administering the lien of the ambulance service, the insurance carrier may pay the amount due secured by the lien of the ambulance service directly, if the claimant authorizes it and does not challenge the amount of the customary charges or that the treatment provided was for injuries caused by the tort-feasor.

5. Any ambulance service electing to receive benefits hereunder releases the claimant from further liability on the cost of the services and treatment provided to that point in time.

[190.044. AMBULANCE SERVICE TAX FROM ONE DISTRICT ONLY (THIRD CLASS COUNTIES), PETITION. — 1. No taxpayer shall be required to pay property taxes for ground ambulance service to both an ambulance district and a fire protection district or two ambulance districts which operate a ground ambulance service, unless reaffirmed and authorized pursuant to this section. In the event that a taxpayer in a third class county is paying taxes to both entities to provide ground ambulance service, any taxpayer residing in the area subject to the double tax may file a petition with the county clerk in which the area, or greatest part thereof, is situated requesting that the double tax be eliminated and that the area only pay a tax to one entity.

2. Upon receipt of such petition, the county clerk shall determine the area taxed by two such entities and place the question before the voters of such area at the next state or municipal election. The petition shall request that the following question be submitted to the voters residing within the geographic limits of the area:

The (description of area) is currently paying a tax to provide ambulance service to the (name of entity created first) and the (name of entity created second).

As a result, choose only one of the following districts to provide ambulance service and taxation:

..... (name of entity created first)

..... (name of entity created second).

3. The entity receiving the most votes shall be declared as the single taxing entity for the area in question. The taxpayers within the area shall thereafter only pay one tax to the single taxing entity following a three-year period, over which the tax rate levied and collected shall be decreased by one-third each year until such tax is no longer levied or collected by the entity not chosen to provide service.

4. All costs incurred by the county clerk as a result of this section, including election costs, shall be paid by the entity not chosen to provide service.

5. The boundaries and service area of the entities providing ambulance service will reflect the change as determined by the election.]

Approved July 11, 2002

SB 1109 [SB 1109]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires Department of Revenue to issue information regarding driving while intoxicated to first time licensees.

AN ACT to amend chapter 302, RSMo, by adding thereto one new section relating to drivers' licenses.

SECTION

A. Enacting clause.

302.176. Information on dangers of operating a motor vehicle in intoxicated or drugged state, all first-time licensees to receive.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 302, RSMo, is amended by adding thereto one new section, to be known as section 302.176, to read as follows:

302.176. INFORMATION ON DANGERS OF OPERATING A MOTOR VEHICLE IN INTOXICATED OR DRUGGED STATE, ALL FIRST-TIME LICENSEES TO RECEIVE. — **Upon successful completion of the requirements of this chapter to obtain a driver's license, all first-time licensees in this state shall receive information from the department of revenue relating to the dangers of operating a motor vehicle while in an intoxicated or drugged condition.**

Approved July 3, 2002

SB 1113 [HCS SCS SB 1113]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises certain coroner's compensation and laws related to coroner's inquests.

AN ACT to repeal sections 58.260, 58.270, 58.310, 58.330, 58.340 and 58.360, RSMo, relating to coroners, and to enact in lieu thereof six new sections relating to the same subject.

SECTION

A. Enacting clause.

58.260. Coroner may issue warrant to summon coroner's jury, when.

58.270. Sheriff to execute warrant.

58.310. Charge to be given to jury by coroner.

58.330. Coroner to issue subpoenas.

58.340. Coroner to administer oath to witnesses.

58.360. Jury to deliver verdict in writing.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 58.260, 58.270, 58.310, 58.330, 58.340 and 58.360, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 58.260, 58.270, 58.310, 58.330, 58.340 and 58.360, to read as follows:

58.260. CORONER MAY ISSUE WARRANT TO SUMMON CORONER'S JURY, WHEN. — Every coroner, [so soon as he shall be notified] **having been notified** of the dead body of any person, supposed to have come to his death by violence or casualty, being found within his county, [shall] **may** make out his warrant, directed to the sheriff of the county where the dead body is found, requiring him forthwith to summon a jury of six good and lawful citizens of the county, to appear before such coroner, at the time and place in his warrant expressed, and to inquire[, upon a view of the body of the person there lying dead,] how and by whom he came to his death.

58.270. SHERIFF TO EXECUTE WARRANT. — The sheriff to whom such warrant shall be directed shall forthwith execute the same, and shall repair to the place where [the dead body is,] **the inquest is to be held** at the time mentioned, and make return of the warrant, with his proceedings thereon, to the coroner who granted the same.

58.310. CHARGE TO BE GIVEN TO JURY BY CORONER. — As soon as the jury shall be sworn, the coroner shall give them a charge, upon their oaths, to declare of the death of the person, whether he died by felony or accident; and if of felony, who were the principals and who were accessories, **and if the act was justified**, and all the material circumstances relating thereto; and if by accident, whether by the act of man, and the manner thereof, and who was present, and who was the finder of the body, and whether he was killed in the same place where the body was found, and, if elsewhere, by whom, and how the body was brought there, and all other circumstances relating to the death; and if he died of his own act, then the manner and means thereof, and the circumstances relating thereto.

58.330. CORONER TO ISSUE SUBPOENAS. — Every coroner shall be empowered to issue his summons for witnesses, **and such evidence, documents and materials of substance**, commanding them to come before him to be examined, and to declare their knowledge concerning the matter in question.

58.340. CORONER TO ADMINISTER OATH TO WITNESSES. — He shall administer to them an oath or affirmation in form as follows:

You do swear (or affirm) that the evidence you shall give to the inquest, concerning the death of the person here [lying] dead, shall be the truth, the whole truth, and nothing but the truth.

58.360. JURY TO DELIVER VERDICT IN WRITING. — The jury, having viewed the body **by photographic, electronic or other means**, heard the evidence, and made all the inquiry in their power, shall draw up and deliver to the coroner their verdict upon the death under consideration, in writing under their hand, and the same shall be signed by the coroner.

Approved July 2, 2002

SB 1119 [HCS SB 1119]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Relating to security at state-owned or leased buildings.

AN ACT to amend chapter 8, RSMo, by adding thereto one new section relating to security of state owned buildings.

SECTION

- A. Enacting clause.
8.115. Armed security guards for state-owned or leased facilities.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 8, RSMo, is amended by adding thereto one new section, to be known as section 8.115, to read as follows:

8.115. ARMED SECURITY GUARDS FOR STATE-OWNED OR LEASED FACILITIES. — **Notwithstanding the provisions of chapter 571, RSMo, the office of administration, division of facilities management, is authorized to provide armed security guards at state-owned or leased facilities except at the seat of government and within the county which contains the seat of government, either through qualified persons employed by the office of administration, or through the use of a contract with a properly licensed firm.**

Approved July 1, 2002

SB 1124 [SB 1124]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the Governor to convey certain property in the City of St. Louis.

AN ACT to authorize the governor to convey certain property in the city of St. Louis.

SECTION

1. Hubert Wheeler State School, conveyance of property by the state to the City of St. Louis.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. HUBERT WHEELER STATE SCHOOL, CONVEYANCE OF PROPERTY BY THE STATE TO THE CITY OF ST. LOUIS. — **1. The governor is hereby authorized and empowered to sell, transfer, grant and convey all interest in property owned by the state in the City of St. Louis which has been known as the Hubert Wheeler State School. The property is more particularly described as:**

Lots 29, 30, 31, 32, 33 and part of Lots 27 and 28 in Block 2 of CHELTENHAM, Lots 21, 22, 23 and part of Lot 20 of WIBLE's EASTERN ADDITION to CHELTENHAM, together with the Western 36 feet of former January Avenue vacated under the provisions of Ordinance No. 52058, and in Blocks 4022 and 4023 of the City of St. Louis, more particularly described as follows:

Beginning at a point in the North line of Wilson Avenue, 40 feet wide, at its intersection with a line 36 feet East of and parallel to the West line of former January Avenue, 60 feet wide, as vacated under the provisions of Ordinance No. 52058; thence North 82 degrees 57 minutes 15 seconds West along said North line of Wilson Avenue a distance of 355.20 feet to a point; thence North 8 degrees 15 minutes 30 seconds East a distance of 472.56 feet to a point in the Southerly Right-of-Way line of Interstate Highway I-44; thence in an Easterly direction along said Right-of-Way line North 87 degrees 03 minutes 45 seconds East a distance of 25.59 feet to an angle point being located in the Eastern line of Lot 20 of Wible's Eastern Addition to Cheltenham, said point being 477 feet North along the Eastern line of said Wible's Addition from the Northern line of Wilson Avenue, 40 feet

wide; thence South 87 degrees 53 minutes 03 seconds East and along said I-44 Right-of-Way line 295.71 feet to a point in the West line of said former January Avenue vacated as aforesaid at a point being 502.42 feet North along said line from the Northern line of Wilson Avenue; thence North 74 degrees 42 minutes 01 seconds East along the South Right-of-Way line of I-44 a distance of 39.27 feet to a point in a line 36 feet East of and parallel to said West line of former January Avenue, vacated as aforesaid; thence South 8 degrees 15 minutes 30 seconds West along said line 36 feet East of the West line of former January Avenue, vacated as aforesaid, a distance of 517.36 feet to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the public sale of the property, as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required; the time, place and terms of the sale; whether or not a minimum bid shall be required; and whether or not to utilize a public auctioneer or licensed real estate broker to market the property. Any auctioneer or broker employed to market the property shall receive the customary fee. All costs and fees, directly related to such sale, shall be paid from the proceeds of such sale.

3. The attorney general shall approve as to form the instrument of conveyance.

Approved June 28, 2002

SB 1132 [SCS SB 1132]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the Recorder of Deeds in the City of St. Louis to be named the local registrar for birth and death records.

AN ACT to repeal section 193.065, RSMo, relating to local registrars, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

193.065. Local registrars, qualifications, appointment—deputies—duties—recorder of deeds appointed as local registrar (St. Louis City).

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 193.065, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 193.065, to read as follows:

193.065. LOCAL REGISTRARS, QUALIFICATIONS, APPOINTMENT — DEPUTIES — DUTIES — RECORDER OF DEEDS APPOINTED AS LOCAL REGISTRAR (ST. LOUIS CITY). — The state registrar may appoint local registrars, each of whom shall be a person employed by an official county health agency **except as otherwise herein provided**. Each local registrar shall be authorized under the provisions of section 193.255 and subsection 2 of section 193.265 to issue certifications of death records. A local registrar, with the approval of the state registrar, may appoint deputies **to carry out some or all of the responsibilities of the local registrar as provided in sections 193.005 to 193.325 or the regulations promulgated pursuant thereto**. The local registrars shall immediately report to the state registrar violations of sections 193.005

to 193.325 or the regulations promulgated pursuant thereto. **In any city not within a county, the state registrar shall appoint the recorder of deeds for such city as the local registrar.**

Approved June 28, 2002

SB 1143 [SB 1143]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies State Auditor's duties regarding bonds.

AN ACT to repeal section 108.240, RSMo, relating to duties of the state auditor, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

108.240. Bonds to be certified by state auditor — validity — defenses.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 108.240, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 108.240, to read as follows:

108.240. BONDS TO BE CERTIFIED BY STATE AUDITOR — VALIDITY — DEFENSES. — 1. Before any general obligation bearer bond or general obligation registered bond, hereafter issued by any county, township, city, town, village or school district or special road district or fire protection district or by virtue of the provisions of chapters 243, 245, 248, and sections 242.010 to 242.690, RSMo, for any purpose whatever, shall obtain validity or be negotiated:

(1) If such bonds are in bearer form, such bonds shall first be presented to the state auditor, [who shall register the same in a book or books, provided for that purpose, in the same manner as state bonds are now registered, and] who, other provisions of law notwithstanding, shall certify by manual or facsimile endorsement of such bonds that all conditions of the laws have been complied with in its issue, if that be the case, and also that the conditions of the contract, under which they were ordered to be issued, have also been complied with and the evidence of that fact shall be filed and preserved by the auditor. The state auditor may endorse bearer bonds with [his] **the auditor's** facsimile signature in lieu of manual signature after filing [his] **the auditor's** manual signature, certified by [him] **the auditor** under oath, with the secretary of state; and

(2) If such bonds are in registered form, the proceedings relating to the issuance of such registered bonds shall first be presented to the state auditor, who shall examine the same and shall issue a certificate that such proceedings comply with all conditions of the laws, if that be the case, and also that the conditions of the contract, under which they were ordered to be issued, have also been complied with, and the evidence of these facts shall be filed and preserved by the auditor. The state auditor shall also [record] **maintain** the following information [in a book or books provided for that purpose, to wit]: the name of the issuer of the bonds; the amount thereof; the maturity dates thereof; the interest rates thereon; and the provisions with respect to prepayment, if any.

2. Such bearer bonds after receiving the said certificate of the auditor as herein provided and such registered bonds after the issuance of the said certificate as herein provided shall

thereafter be held in every action, suit or proceeding in which their validity is, or may be, brought into question, prima facie, valid and binding obligations, and in every action brought to enforce collection of such bonds, the certificate of such auditor, or a duly certified copy thereof, shall be admitted and received in evidence of the validity of such bonds, together with the coupons thereto attached if any; provided, the only defense which can be offered against the validity of such bonds shall be for forgery or fraud. But this section shall not be construed to give validity to any such bonds as may be issued in excess of the limit fixed by the constitution, or contrary to its provisions, but all such bonds shall, to the extent of such excess, be held void; and provided further, that the remedy of injunction shall also lie at the instance of any taxpayer of the respective county, city, town, village, township or school district or special road district or fire protection district or drainage district or levy district to prevent the registration of any bonds, alleged to be illegally issued or funded.

Approved July 12, 2002

SB 1151 [SCS SB 1151]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Expands purposes for which certain local tourism taxes can be used.

AN ACT to repeal section 94.875, RSMo, relating to tourism tax trust funds in certain cities, and to enact in lieu thereof one new section relating to the same subject.

SECTION

- A. Enacting clause.
94.875. Tourism tax trust fund established, purpose — taxes to be deposited in fund — distribution — election required to impose tax.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 94.875, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 94.875, to read as follows:

94.875. TOURISM TAX TRUST FUND ESTABLISHED, PURPOSE — TAXES TO BE DEPOSITED IN FUND — DISTRIBUTION — ELECTION REQUIRED TO IMPOSE TAX. — All taxes authorized and collected under sections 94.870 to 94.881 shall be deposited by the political subdivision in a special trust fund to be known as the "Tourism Tax Trust Fund". The moneys in such tourism tax trust fund shall not be commingled with any other funds of the political subdivision **except as specifically provided in this section.** The taxes collected shall be used, upon appropriation by the political subdivision, solely for the purpose of constructing, maintaining, or operating convention and tourism facilities, and at least twenty-five percent of such taxes collected shall be used for tourism marketing and promotional purposes; **except that in any city with a population of less than one thousand five hundred inhabitants, forty percent of such taxes collected may be transferred to such city's general revenue fund and the remaining thirty-five percent may be used for city capital improvements, pursuant to voter approval.** The moneys in the tourism tax trust fund of any city with a population of at least fifteen thousand located partially but not wholly within a county of the third classification with a population of at least thirty-nine thousand inhabitants shall be used solely for tourism marketing and

promotional purposes. The tax authorized by section 94.870 shall be in addition to any and all other sales taxes allowed by law, but no ordinance or order imposing a tax under section 94.870 shall be effective unless the governing body of the political subdivision submits to the voters of the political subdivision at a municipal or state general, primary, or special election a proposal to authorize the governing body of the political subdivision to impose such tax.

Approved June 12, 2002

SB 1163 [SCS SB 1163]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Clarifies provisions in the air emissions banking and trading program.

AN ACT to repeal section 643.220, RSMo, relating to the air emissions banking and trading program, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

643.220. Missouri emissions banking and trading program established by commission — promulgation of rules.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 643.220, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 643.220, to read as follows:

643.220. MISSOURI EMISSIONS BANKING AND TRADING PROGRAM ESTABLISHED BY COMMISSION — PROMULGATION OF RULES. — 1. The commission shall promulgate rules establishing a "Missouri Air Emissions Banking and Trading Program" to achieve and maintain the National Ambient Air Quality Standards established by the United States Environmental Protection Agency pursuant to the federal Clean Air Act, 42 U.S.C. 7401, et seq., as amended. In promulgating such rules, the commission may consider, but not be limited to, inclusion of provisions concerning the definition and transfer of air emissions reduction credits or allowances between mobile sources, area sources and stationary sources, the role of offsets in emissions trading, interstate and regional emissions trading and the mechanisms necessary to facilitate emissions trading and banking, including consideration of the authority of other contiguous states.

2. The program shall:

- (1) Not include any provisions prohibited by federal law;
 - (2) Be applicable to criteria pollutants and their precursors as defined by the federal Clean Air Act, as amended;
 - (3) Not allow banked or traded emissions credits to be used to meet federal Clean Air Act requirements for hazardous air pollutant standards pursuant to Section 112 of the federal Clean Air Act;
 - (4) Allow the banking and trading of criteria pollutants that are also hazardous air pollutants, as defined in Section 112 of the federal Clean Air Act, to the extent that verifiable emissions reductions achieved are in excess of those required to meet hazardous air pollutant emissions standards promulgated pursuant to Section 112 of the federal Clean Air Act;
 - (5) Authorize the direct trading of air emission reduction credits or allowances between nongovernmental parties, subject to the approval of the department;
-

(6) Allow net air emission reductions from federally approved permit conditions to be transferred to other sources for use as offsets required by the federal Clean Air Act in nonattainment areas to allow construction of new emission sources; and

(7) Not allow banking of air emission reductions unless they are in excess of reductions required by state or federal regulations or implementation plans.

3. The department shall verify, certify or otherwise approve the amount of an air emissions reduction credit before such credit is banked. Banked credits may be used, traded, sold or otherwise expended within the same nonattainment area, maintenance area or air quality modeling domain in which the air emissions reduction occurred, provided that there will be no resulting adverse impact of air quality.

4. To be creditable for deposit in the Missouri air emissions bank, a reduction in air emissions shall be permanent, quantifiable and federally approved.

5. To be tradeable between air emission sources, air emission reduction credits shall be based on air emission reductions that occur after August 28, 2001, **or shall be credits that exist in the current air emissions bank.**

6. In nonattainment areas, the bank of criteria pollutants and their precursors shall be reduced by three percent annually for as long as the area is classified as a nonattainment area.

Approved June 13, 2002

SB 1168 [SB 1168]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes conveyances of state property in Laclede and Cole counties.

AN ACT to authorize the conveyance of property owned by the state.

SECTION

1. Clear zone easement granted to city of Lebanon.
2. Conveyance of Cole County property to General Services Administration or the Missouri development finance board.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. CLEAR ZONE EASEMENT GRANTED TO CITY OF LEBANON. — 1. The governor is hereby authorized to grant a clear zone easement for the airspace above property managed by the National Guard to the city of Lebanon, Missouri. The tract of land situated in the Southwest Quarter of Section 23, Township 34, Range 16 of the Fifth Principal Meridian, County of Laclede, State of Missouri, more particularly described as follows:

All of the east 225.0 feet of that part of the S.W. 1/4 S.E. 1/4 Section 23, Township 34, Range 16, Laclede County, Missouri lying north of Fremont Road.

The clear zone easement shall prohibit the state from causing, or permitting the causing of, an obstruction in the clear zone situated over the above-described land, including the erection of any structure or growth of any tree, or other object.

The clear zone shall consist of three circular concentric sections. The innermost first section is circular and originates at the existing ground elevation at the base of the Automated Weather Observation System (AWOS) tower and extends vertically upward to infinity with a radius of one hundred feet. The second section begins at fifteen feet

above the ground surface at the base of the AWOS tower and extends vertically upward to infinity with an inside radius of one hundred feet and an outside radius of five hundred feet. The third section begins at forty feet above the ground surface at the AWOS tower and extends vertically upward to infinity with an inside radius of five hundred feet and an outside radius of one thousand feet.

2. A termination date for the easement shall be as negotiated by the parties.
3. Consideration for the conveyance of the easement shall be one dollar.
4. The attorney general shall approve as to form the instruments of conveyance.

SECTION 2. CONVEYANCE OF COLE COUNTY PROPERTY TO GENERAL SERVICES ADMINISTRATION OR THE MISSOURI DEVELOPMENT FINANCE BOARD. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in the County of Cole to the General Services Administration or the Missouri development finance board. The property to be conveyed is more particularly described as follows:

All of Inlots 187 and 188; All of Inlots 191 thru 200 inclusive; All of Inlots 225 thru 229; All that part of the Hough Street Right-of-way (previously vacated by Jefferson City Ordinance No. 3256); All that part of the Marshall Street Right-of-way lying north of the northerly line of State Street and south of the Missouri Pacific Railroad; All that part of the Lafayette Street Right-of-way (previously vacated by Jefferson City ordinance no. 3256); All that part of a 20 foot wide public alley lying between Marshall Street and Lafayette Street (previously vacated by Jefferson City Ordinance No. 3256); All that part of a 20 foot wide public alley, lying east of the easterly line of Inlots 185 and 190 and west of the westerly line of the Marshall Street Right-of-way; any part of Fractional Section 8, lying south of the Missouri Pacific Railroad and north of Inlots 187 & 188, any part of Fractional Section 8, lying south of the Missouri Pacific Railroad and north of Inlots 225 thru 229 inclusive; according to the plat of the City of Jefferson, Missouri and according to the Government Land Office Plat of Township 44 North, Range 11 West, dated December 6, 1861. All of the aforesaid lies within Fractional Section 8 of said Township 44 North, Range 11 West, and within the Corporate Limits of the City of Jefferson, Cole County, Missouri, more particularly described as follows:

BEGINNING at the southwesterly corner of Inlot 191; thence N42°18'12"E, along the westerly line of said Inlot 191 and along the northerly extension thereof, 218.46 feet to a point intersecting the northerly line of a 20 foot wide alley at the southwest corner of Inlot 186; thence S47°41'48"E, along the northerly line of said alley, 69.58 feet to the southwesterly corner of Inlot 187; thence N42°18'12"E, along the westerly line of said Inlot 187 and the northerly extension thereof, 259.20 feet; thence S68°13'57"E, 766.53 feet to a point intersecting the easterly line of the aforesaid vacated Lafayette Street Right-of-way; thence S42°15'04"W, along the easterly line of said vacated Lafayette Street Right-of-way, 746.58 feet to a point intersecting the northerly line of the State Street Right-of-way (formerly Water Street); thence N47°42'13"W, along the northerly line of said State Street Right-of-way, 539.62 feet to a point in the center of the Marshall Street Right-of-way; thence N47°40'29"W, along the northerly line of said State Street Right-of-way, 248.46 feet to the POINT OF BEGINNING.

2. Consideration for the conveyance shall be the transfer of property of like value to the state of Missouri.

3. The attorney general shall approve the form of the instrument of conveyance.

Approved June 21, 2002

SB 1182 [SCS SB 1182]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the law relating to health care professionals under the State Board of Registration for the Healing Arts.

AN ACT to repeal section 334.104, RSMo, relating to the state board of registration for the healing arts, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 334.002. Inactive license status granted, when.
- 334.104. Collaborative practice arrangements, form, delegation of authority — rules, approval, restrictions — disciplinary actions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 334.104, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 334.002 and 334.104, to read as follows:

334.002. INACTIVE LICENSE STATUS GRANTED, WHEN. — **1.** Notwithstanding any law to the contrary, any person licensed pursuant to this chapter may apply to the state board of registration for the healing arts for an inactive license status on a form furnished by the board. Upon receipt of the completed inactive status application form and the board's determination that the licensee meets the requirements established by rule, the board shall declare the licensee inactive and shall place the licensee on an inactive status list. A person whose license is inactive or who has discontinued his or her practice because of retirement shall not practice his or her profession within this state, but shall be allowed to practice his or her profession on himself or herself or on his or her immediate family, however, such person shall not be allowed to prescribe controlled substances. Such person may continue to use the title of his or her profession or the initials of his or her profession after such person's name.

2. During the period of inactive status, the licensee shall not be required to comply with the board's minimum requirements for continuing education.

3. If a licensee is granted inactive status, the licensee may return to active status by notifying the board in advance of his or her intention, paying the appropriate fees, and meeting all established requirements of the board as a condition of reinstatement.

4. Any licensee allowing his or her license to become inactive, may within five years of the inactive status return his or her license to active status by notifying the board in advance of such intention, paying the appropriate fees, and meeting all established licensure requirements of the board, excluding the licensing examination, as a condition of reinstatement.

334.104. COLLABORATIVE PRACTICE ARRANGEMENTS, FORM, DELEGATION OF AUTHORITY — RULES, APPROVAL, RESTRICTIONS — DISCIPLINARY ACTIONS. — **1.** A physician may enter into collaborative practice arrangements with registered professional nurses. Collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols, or standing orders for the delivery of health care services. Collaborative practice arrangements, which shall be in writing, may delegate to a registered professional nurse the authority to administer or dispense drugs and provide treatment as long as the delivery of such health care services is within the scope of practice of the registered professional nurse and is consistent with that nurse's skill, training and competence.

2. Collaborative practice arrangements, which shall be in writing, may delegate to a registered professional nurse the authority to administer, dispense or prescribe drugs and provide treatment if the registered professional nurse is an advanced practice nurse as defined in subdivision (2) of section 335.016, RSMo. Such collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols or standing orders for the delivery of health care services.

3. The state board of registration for the healing arts pursuant to section 334.125 and the board of nursing pursuant to section 335.036, RSMo, may jointly promulgate rules regulating the use of collaborative practice arrangements. Such rules shall be limited to specifying geographic areas to be covered, the methods of treatment that may be covered by collaborative practice arrangements and the requirements for review of services provided pursuant to collaborative practice arrangements. Any rules relating to dispensing or distribution of medications or devices by prescription or prescription drug orders under this section shall be subject to the approval of the state board of pharmacy. In order to take effect, such rules shall be approved by a majority vote of a quorum of each board. Neither the state board of registration for the healing arts nor the board of nursing may separately promulgate rules relating to collaborative practice arrangements. Such jointly promulgated rules shall be consistent with guidelines for federally funded clinics. The rulemaking authority granted in this subsection shall not extend to collaborative practice arrangements of hospital employees providing inpatient care within hospitals as defined pursuant to chapter 197, RSMo.

4. The state board of registration for the healing arts shall not deny, revoke, suspend or otherwise take disciplinary action against a physician for [acts arising out of an agreement, which on or after August 28, 1993, shall be a written agreement, with] **health care services delegated to a registered professional nurse**, a pharmacist or registered physician assistant practicing within the scope of his license or registration] **provided the provisions of this section and the rules promulgated thereunder are satisfied**. Upon the written request of [the] a physician subject to [the] a disciplinary action[, the record of any such disciplinary licensure action] imposed as a result of an agreement between a physician and a registered professional nurse or registered physician assistant, whether written or not, prior to August 28, 1993, **all records of such disciplinary licensure action** and all records pertaining to the filing, investigation or review of an alleged violation of this chapter incurred as a result of such an agreement shall be removed from the records of the state board of registration for the healing arts and the division of professional registration and shall not be disclosed to any public or private entity seeking such information from the board or the division. The state board of registration for the healing arts shall take action to correct reports of alleged violations and disciplinary actions as described in this section which have been submitted to the National Practitioner Data Bank. In subsequent applications or representations relating to his medical practice, a physician completing forms or documents shall not be required to report any actions of the state board of registration for the healing arts for which the records are subject to removal under this section.

Approved July 2, 2002

SB 1191 [HS HCS SS#2 SB 1191]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

In the event of a budgetary emergency, bonds may be issued to be repaid with net tobacco settlement agreement receipts.

AN ACT to repeal section 8.010, RSMo, and to enact in lieu thereof twenty-six new sections relating to the tobacco settlement financing authority act, with an emergency clause.

SECTION

- A. Enacting clause.
- 8.010. Board of public buildings created — powers and duties.
- 8.500. Citation.
- 8.505. Definitions.
- 8.510. Tobacco settlement financing authority created, purpose, restrictions.
- 8.515. Powers of authority not restricted or limited — proceedings, notice or approval not required, when.
- 8.520. Board to exercise powers, membership, meetings, no compensation.
- 8.525. No personal liability for board members, when.
- 8.530. Powers of the board.
- 8.535. Authority to sell or assign state's share of tobacco settlement.
- 8.540. Issuance of bonds authorized, when.
- 8.545. Proceeds of bonds to be deposited in the tobacco securitization settlement trust fund, use of moneys — issuance of bonds, requirements.
- 8.550. Tobacco securitization settlement trust fund established, source of fund moneys, uses — qualified tax-exempt expenditure account and taxable expenditure account authorized.
- 8.552. Authority to determine deposit and withdrawal of moneys.
- 8.555. Exemption from competitive bidding requirements of the state.
- 8.557. Annual report to the general assembly to be submitted, content.
- 8.560. No bankruptcy petition may be filed, when.
- 8.565. Dissolution of authority, when — transfer of assets upon dissolution.
- 8.570. Issuance of bonds by board of public buildings, use of proceeds.
- 8.572. Bond issuance not deemed indebtedness of the state or board of public buildings.
- 8.575. Bond requirements.
- 8.580. Refunding of bonds, when, procedure.
- 8.585. Form details and incidents of bonds to be prescribed by board of public buildings.
- 8.590. Resolution of board of public buildings required for issuance of bonds.
- 8.592. Issuance of notes, maturity dates — transfer of funds to secure notes.
- 8.595. Liberal construction of act.
 - 1. Advisory committee of tobacco securitization established, members, duties.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 8.010, RSMo, is repealed and twenty-six new sections enacted in lieu thereof, to be known as sections 8.010, 8.500, 8.505, 8.510, 8.515, 8.520, 8.525, 8.530, 8.535, 8.540, 8.545, 8.550, 8.552, 8.555, 8.557, 8.560, 8.565, 8.570, 8.572, 8.575, 8.580, 8.585, 8.590, 8.592, 8.595, and 1, to read as follows:

8.010. BOARD OF PUBLIC BUILDINGS CREATED — POWERS AND DUTIES. — 1. The governor, attorney general and lieutenant governor constitute the board of public buildings. The governor is chairman and the lieutenant governor, secretary. **The speaker of the house of representatives and the president pro tempore of the senate shall serve as ex officio members of the board but shall not have the power to vote.** The board shall constitute a body corporate and politic. The board has general supervision and charge of the public property of the state at the seat of government and other duties imposed on it by law.

2. The commissioner of administration shall provide staff support to the board.

8.500. CITATION. — Sections 8.500 to 8.565 shall be known and may be cited as the "Tobacco Settlement Financing Authority Act".

8.505. DEFINITIONS. — As used in sections 8.500 to 8.565, the following terms mean:
(1) "Authority", the tobacco settlement financing authority created by section 8.510;
(2) "Board", the governing board of the authority;
(3) "Bonds", bonds, notes, and other obligations and financing arrangements issued or entered into by the authority pursuant to sections 8.500 to 8.565;

(4) "Master settlement agreement", the master settlement agreement as defined in section 196.1000, RSMo;

(5) "Net proceeds", the amount of proceeds remaining following each sale of bonds which are not required by the authority to establish and fund reserve funds, to fund capitalized interest on the bonds, and to pay the costs of issuance and other expenses and fees directly related to the authorization and issuance of bonds;

(6) "Program plan", the tobacco settlement program to provide funds for budget purposes to fund one-time expenditures, short-term revenue shortfalls, refund a portion of the general obligation indebtedness of the State and capital projects of any kind;

(7) "Sales agreement", any agreement authorized pursuant to sections 8.500 to 8.565 in which the state provides for the sale of a portion of the state's share to the authority;

(8) "State's share", all payments required to be made by tobacco product manufacturers to the state, and the state's rights to receive such payments, under the master settlement agreement;

(9) "Tax-exempt bonds", bonds issued by the authority that are accompanied by a written opinion of bond counsel to the authority that the interest on such bonds is excluded from the gross income of the recipients for federal income tax purposes;

(10) "Taxable bonds", bonds issued by the authority that are not accompanied by a written opinion of bond counsel to the authority that the interest on such bonds is excluded from the gross income of the recipients for federal income tax purposes; and

(11) "Tobacco securitization settlement trust fund", the tobacco securitization settlement trust fund created by section 8.550.

8.510. TOBACCO SETTLEMENT FINANCING AUTHORITY CREATED, PURPOSE, RESTRICTIONS. — 1. There is hereby created the "Tobacco Settlement Financing Authority", which shall constitute a body corporate and politic. The staff of the office of administration shall also serve as staff of the authority under the supervision of the commissioner of administration.

2. The purposes of the authority include all of the following:

(1) To implement and administer the securitization of a portion of the state's share as provided in sections 8.500 to 8.565;

(2) To enter into sales agreements;

(3) To issue bonds and enter into funding options, consistent with sections 8.500 to 8.565, including refunding and refinancing its debt and obligations;

(4) To sell, pledge, or assign, as security or consideration, that a portion of the state's share sold to the authority pursuant to a sales agreement, to provide for and secure the issuance and repayment of its bonds;

(5) To invest funds available under sections 8.500 to 8.565;

(6) To enter into agreements with the state for the distribution of amounts due the state under any sales agreement; and

(7) To refund and refinance the authority's debts and obligations, and to manage its funds, obligations, and investments as necessary and if consistent with its purposes.

3. The authority shall not create any obligation of the state or any political subdivision of the state within the meaning of any constitutional or statutory debt limitation. The authority shall not undertake any activities other than those required to implement sections 8.500 to 8.565.

4. The authority shall not pledge the credit or taxing power of the state or any political subdivision of the state, or make its debts payable out of any moneys except those of the authority specifically pledged for their payment.

5. The authority shall not pledge or make its debts payable out of the moneys deposited in the tobacco securitization settlement trust fund.

8.515. POWERS OF AUTHORITY NOT RESTRICTED OR LIMITED — PROCEEDINGS, NOTICE OR APPROVAL NOT REQUIRED, WHEN. — Sections 8.500 to 8.565 shall not restrict or limit the powers that the authority has under any other law of the state, but is cumulative as to any such powers. A proceeding, notice, or approval is not required for the creation of the authority or the issuance of bonds, debt obligations or any instrument as security, except as provided in sections 8.500 to 8.565.

8.520. BOARD TO EXERCISE POWERS, MEMBERSHIP, MEETINGS, NO COMPENSATION. — The powers of the authority are vested in and shall be exercised by a board consisting of three members: the governor, the lieutenant governor, and the attorney general. The speaker of the house of representatives and the president pro tempore of the senate shall serve as ex-officio member of the board but shall not have the power to vote. The treasurer of the state may serve as an ex officio member of the authority but shall not have the power to vote. Two members of the board constitute a quorum. The members shall elect a chairperson, vice chairperson, and secretary, annually, and other officers as the members determine necessary. Meetings of the board shall be held at the call of the chairperson or when a majority of the members so request. The members of the board shall not receive compensation by reason of their membership on the board.

8.525. NO PERSONAL LIABILITY FOR BOARD MEMBERS, WHEN. — Members of the board and persons acting on the authority's behalf, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties conferred on them under sections 8.500 to 8.565.

8.530. POWERS OF THE BOARD. — The authority has all the general powers to the extent necessary to carry out its purposes and duties and to exercise its specific powers to the extent necessary, including but not limited to all of the following powers:

(1) The power to issue its bonds and to enter into other funding options as provided in sections 8.500 to 8.565;

(2) The power to sue and be sued in its own name;

(3) The power to make and execute agreements, contracts, and other instruments, with any public or private person, in accordance with sections 8.500 to 8.565;

(4) The power to hire and compensate legal counsel, financial advisors, investment bankers, and other persons as necessary to fulfill its purposes, following the solicitation of qualifications for such services and the evaluation thereof by the authority;

(5) The power to invest or deposit moneys of or held by the authority in such deposits or investments as the state may invest, and in obligations of states and their political subdivisions that are rated in one of the two highest rating categories by a nationally recognized bond rating agency;

(6) The power to create funds and accounts necessary to carry out its purposes;

(7) The power to procure insurance, other credit enhancements, and other financing arrangements, and to execute instruments and contracts and to enter into agreements convenient or necessary to facilitate financing arrangements of the authority and to fulfill the purposes of the authority under sections 8.500 to 8.565, including but not limited to such arrangements, instruments, contracts, and agreements as municipal bond insurance, liquidity facilities, forward purchase agreements, interest rate swaps, exchange or cap or floor agreements, and letters of credit;

(8) The power to accept appropriations from public entities for the purpose of securing debt obligations with a maturity of not more than one year issued pursuant to Section 8.545 hereof;

(9) The power to adopt rules, consistent with sections 8.500 to 8.565, as the board determines necessary;

- (10) The power to acquire, own, hold, administer, and dispose of personal property;
- (11) The power to determine, in connection with the issuance of bonds, and subject to the sales agreement, the terms and other details of any financing, and the method of implementation of the financing;
- (12) The power to make all expenditures which are incident and necessary to carry out its purposes and powers; and
- (13) The power to perform any act not inconsistent with federal or state law necessary to carry out the purposes of the authority.

8.535. AUTHORITY TO SELL OR ASSIGN STATE'S SHARE OF TOBACCO SETTLEMENT. —

1. (1) The governor or the governor's designee shall be authorized to sell and assign to the authority, pursuant to one or more sales agreements, not to exceed thirty percent of the state's share to implement sections 8.500 to 8.565; provided, the net proceeds of bonds issued to implement sections 8.500 to 8.565 shall not exceed six hundred million dollars. The attorney general shall assist the governor in the preparation, modification and review of all documentation as may be necessary to effect such a sale and to implement the provisions of sections 8.500 to 8.565.

(2) Any sales agreement shall be consistent with sections 8.500 to 8.565. The terms and conditions of the sale established in such sales agreement may include but are not limited to any of the following:

(a) A requirement that the state enforce and pay the expenses of enforcing the provisions of the master settlement agreement that require payment of the state's share that has been sold to the authority under a sales agreement which obligation shall constitute a material covenant of the state;

(b) A requirement that the state not agree to any amendment of the master settlement agreement that materially and adversely affects the authority's ability to receive the state's share that has been sold to the authority under a sales agreement;

(c) A statement that the net proceeds from the sale of bonds shall be deposited in the tobacco securitization settlement trust fund established under section 8.550 and that in no event shall the amounts in the trust fund be available or be applied for payment of bonds or any claim against the authority or any debt or obligation of the authority; and

(d) An agreement that the effective date of the sale is the date of receipt of the bond proceeds by the authority.

2. Any sales made under this section shall be irrevocable during the time when bonds are outstanding under sections 8.500 to 8.565, and shall be a part of the contractual obligation owed to the bondholders. The sale shall constitute and be treated as a true sale and absolute transfer of the property so transferred and not as a pledge or other security interest for any borrowing. The characterization of such a sale as an absolute transfer shall not be negated or adversely affected by the fact that only a portion of the state's share is being sold, or by the state's acquisition or retention of an ownership interest in the residual assets.

3. On or after the effective date of such sale, the state shall not have any right, title, or interest in the portion of the master settlement agreement sold and such portion shall be the property of the authority and not the state, and shall be owned, received, held, and disbursed by the authority or its trustee or assignee, and not the state.

4. On or before the effective date of the sale, the state shall notify the escrow agent or its assignee under the master settlement agreement of the sale and shall instruct the escrow agent or its assignee that subsequent to that date, all payments constituting the portion sold shall be made directly to the authority.

5. The authority shall report to board of public buildings on or before the date of the sale, advising it of the status of the sale, its terms, and conditions.

8.540. ISSUANCE OF BONDS AUTHORIZED, WHEN. — Subject to the receipt of written approval of the board of public buildings, the authority may issue taxable bonds or tax-exempt bonds to provide for the implementation of sections 8.500 to 8.565 and may proceed with a securitization to maximize the transference of benefits and risks associated with the master settlement agreement.

8.545. PROCEEDS OF BONDS TO BE DEPOSITED IN THE TOBACCO SECURITIZATION SETTLEMENT TRUST FUND, USE OF MONEYS —ISSUANCE OF BONDS, REQUIREMENTS. — **1.** The net proceeds from bonds issued by the authority shall be deposited in the tobacco securitization settlement trust fund and applied to the governmental purposes provided in section 8.550 hereof. The net proceeds from such bonds may be used to implement sections 8.500 to 8.565 and carry out the program plan. In connection with the issuance of bonds and subject to the terms of the sales agreement, the authority shall determine the terms and other details of the financing and the method of implementation of sections 8.500 to 8.565. Bonds issued pursuant to this section may be secured by a pledge of the authority's interest in any sales agreement and any other sources available to the authority with the exception of moneys in the tobacco securitization settlement trust fund. The authority shall also have the power to issue refunding bonds, including advance refunding bonds, for the purpose of refunding previously issued bonds, and shall have the power to issue any other types of bonds, debt obligations, and financing arrangements necessary to fulfill the purposes of sections 8.500 to 8.565, including but not limited to the issuance of debt obligations with a maturity of not more than one year from the date of issue for the purpose of preserving any expenditure of moneys from the state general revenue fund for reimbursement from the proceeds of any bonds to be issued pursuant to sections 8.500 to 8.565. The state may transfer to the authority funds designated in the state's budget for such expenditure for the purpose of securing such debt obligations. Such debt obligations may also be secured by a covenant of the authority to issue bonds under sections 8.500 to 8.565. The purpose for the issuance of such debt obligations and the transfer of such moneys shall be to maximize the utilization of tax-exempt bonds by the authority.

2. The authority may issue its bonds in principal amounts which, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its purposes, the payment of interest on its bonds, the establishment of reserves to secure the bonds, the costs of issuance of its bonds, and all other expenditures of the authority incident to and necessary to carry out its purposes or powers. The bonds are investment securities and negotiable instruments within the meaning of and for the purposes of the uniform commercial code.

3. Bonds issued by the authority are special obligations of the authority payable solely and only out of the moneys, assets, or revenues pledged by the authority and are not a general obligation or indebtedness of the authority or an obligation or indebtedness of the state or any political subdivision of the state. The authority shall not pledge the credit or taxing power of the state or any political subdivision of the state, or create a debt or obligation of the state, or make its debts payable out of any moneys except those of the authority specifically pledged to such purpose, and shall exclude from any such pledge those moneys deposited in the tobacco securitization settlement trust fund.

4. Bonds issued by the authority shall state on their face that they are special obligations payable both as to principal and interest solely out of the assets of the authority pledged for their purpose and do not constitute an indebtedness of the state or any political subdivision of the state; are secured solely by and payable solely from assets of the authority pledged for such purpose; constitute neither a general, legal, or moral obligation of the state or any of its political subdivisions; and that the state has no obligation or intention to satisfy any deficiency or default of any payment of the bonds.

5. Any amount pledged by the authority to be received under the master settlement agreement shall be valid and binding at the time the pledge is made. Amounts so pledged and then or thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind against the authority, whether such parties have notice of the lien. Notwithstanding any other provision to the contrary, the resolution of the authority or any other instrument by which a pledge is created need not be recorded or filed to perfect such pledge.

6. The bonds shall comply with all of the following:

(1) The bonds shall be in a form, issued in denominations, executed in a manner, and payable over terms, not to exceed forty-five years, and with rights of redemption, as the board prescribes in the resolution authorizing their issuance;

(2) The bonds shall be fully negotiable instruments under the laws of the state. The sale of bonds issued pursuant to this section may be completed on a negotiated or competitive basis, but in no event shall such bonds be sold for less than ninety-five percent of the par value thereof, plus accrued interest;

(3) The aggregate costs of issuance of any bonds or other obligations issued by the authority (excluding insurance or other credit enhancement) shall not exceed one and one-half percent of the aggregate principal amount of the bonds, if the aggregate principal amount is equal to or greater than three hundred million dollars, or two percent of the aggregate principal amount of the bonds, if the aggregate principal amount is less than three hundred million dollars. The authority shall not procure insurance or other credit enhancement for the bonds unless the underwriter or the authority's financial advisor certifies that the present value of the premium paid for such insurance or credit enhancement is less than the present value of the interest expected to be saved as a result of the insurance or credit enhancement; and

(4) The bonds shall be subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest which may be fixed or variable during any period the bonds are outstanding, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with sections 8.500 to 8.565 and as determined by resolution of the board authorizing their issuance.

7. All banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, insurance companies and associations, and all executors, administrators, guardians, trustees, and other fiduciaries legally may invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds issued pursuant to sections 8.500 to 8.565. Interest on the authority's bonds shall be exempt from Missouri taxation in the state of Missouri for all purposes except the state estate tax.

8. Following the approval of the board of public buildings, bonds may be issued by the authority pursuant to the provisions of sections 8.500 to 8.565 pursuant to a resolution adopted by the affirmative vote of two-thirds of the members of the board and no other proceedings shall be required therefor. However, a resolution authorizing the issuance of bonds may delegate to an officer of the authority the power to negotiate and fix the details of an issue of bonds by an appropriate certificate of the authorized officer.

9. The state reserves the right at any time to alter, amend, repeal, or otherwise change the structure, organization, programs, or activities of the authority, including the power to terminate the authority, except that a law shall not be enacted that impairs any obligation made pursuant to a sales agreement or any contract entered into by the authority with or on behalf of the holders of the bonds.

8.550. TOBACCO SECURITIZATION SETTLEMENT TRUST FUND ESTABLISHED, SOURCE OF FUND MONEYS, USES—QUALIFIED TAX-EXEMPT EXPENDITURE ACCOUNT AND TAXABLE EXPENDITURE ACCOUNT AUTHORIZED.—1. A tobacco securitization settlement trust fund

is established, separate and apart from all other public moneys or funds of the state, under the control of the authority. The fund shall consist of moneys paid to the authority and not pledged to the payment of bonds or otherwise obligated or any other moneys deposited to the fund by the authority. Such moneys shall include but are not limited to payments received from the master settlement agreement which are not pledged to the payment of bonds or which are subsequently released from a pledge to the payment of any bonds; payments which, in accordance with any sales agreement with the state, are to be paid to the state and not pledged to the bonds, including that portion of the proceeds of any bonds designated for purchase of a portion of the state's share, which are designated for deposit in the fund, together with all interest, dividends, and rents on the bonds; and all securities or investment income and other assets acquired by and through the use of the moneys belonging to the fund and any other moneys deposited in the fund. Moneys in the fund are to be used solely and only as provided in this section, and shall not be used for any other purpose. Such moneys shall not be available for the payment of any claim against the authority or any debt or obligation of the authority.

2. There shall be established within the tobacco securitization settlement trust fund a "qualified tax-exempt expenditure account" and a "taxable expenditure account". The net proceeds of all tax-exempt bonds shall be deposited in the qualified tax-exempt expenditure account. The net proceeds of all taxable bonds shall be deposited in the taxable expenditure account. Moneys deposited in the qualified tax-exempt expenditure account shall be used to pay or reimburse the state for expenditures which are permissible under federal tax law governing tax-exempt bonds. Upon such reimbursement or use such moneys shall be transferred by the authority to the state treasurer for deposit in the state general revenue fund and applied as provided in subsection 4 of this section or to such other fund as may be provided by law. Moneys deposited in the taxable expenditure account shall, upon direction of the authority, be transferred to the state treasurer for deposit in the state general revenue fund or to such other fund as may be provided by law.

3. For the purpose of maximizing the amount of tax-exempt bonds to be issued, the governor or an authorized designee may evidence in writing the state's intent to finance any state expenditure from the proceeds of bonds either by directly funding such expenditure or through reimbursement of amounts originally funded from another source. An allocation of proceeds of bonds to finance any expenditure originally funded from another source may be evidenced by a written statement signed by the governor or an authorized designee. Upon such allocation, the amount allocated shall be deposited to the general revenue fund of the state and thereafter may be appropriated for any purpose. The treasurer of the authority shall act as custodian and trustee of the tobacco securitization settlement trust fund and shall administer the fund as directed by the authority. The treasurer of the authority shall do all of the following: hold, invest and disburse funds; sell any securities or other property held by the fund and reinvest the proceeds as directed by the authority, when deemed advisable by the authority for the protection of the fund or the preservation of the value of the investment; subscribe, at the direction of the authority, for the purchase of securities for future delivery in anticipation of future income; and pay for securities, as directed by the authority, upon the receipt of the purchasing entity's paid statement or paid confirmation of purchase. Any sale of securities or other property held by the fund under this subsection shall only be made with the advice of the board in the manner and to the extent provided in sections 8.500 to 8.565 with regard to the purchase of investments.

4. All moneys paid to or deposited in the fund are available to the authority to be used in accordance with sections 8.500 to 8.565, including but not limited to all of the following:

(1) For payment of amounts due to the state pursuant to the terms of the sales agreements entered into between the state and the authority;

(2) For purposes of paying or reimbursing the state for expenditures which are permissible under federal tax law governing tax-exempt bonds; provided, such moneys are transferred at the time of such payment or reimbursement to the state treasurer for deposit in the state general revenue fund and used by the state treasurer solely to pay the costs of implementing the program plan;

(3) For transfer to the state general revenue fund for the payment of the costs of implementing the program plan;

(4) To make interim transfers to the state as provided in subsection 5 of this section; and

(5) For payment of any other costs other than the payment of bonds approved by the authority to implement sections 8.500 to 8.565.

5. Prior to disbursement of the moneys in the tobacco securitization settlement trust fund in accordance with subsection 4 of this section, the authority shall have the power to transfer moneys in the fund to the state general revenue fund for the purposes of funding the program plan on an interim basis, provided the state agrees to reimburse the tobacco securitization settlement trust fund before the date such moneys are expected to be expended by the authority.

6. No more than one hundred seventy-five million dollars of the net proceeds of bonds authorized by sections 8.500 to 8.565 may be applied to the payment of the costs of the program plan during any fiscal year; provided, amounts not so applied during a prior fiscal year may be carried over and applied to costs of implementing the program plan during the next successive fiscal year.

8.552. AUTHORITY TO DETERMINE DEPOSIT AND WITHDRAWAL OF MONEYS. — Moneys of the authority, except as otherwise provided in sections 8.500 to 8.565 or specified in a trust indenture or resolution pursuant to which the bonds are issued, shall be paid to the authority and shall be deposited in such manner as shall be determined by the authority. The moneys shall be withdrawn on the order of the authority or its designee. All moneys of the authority or moneys held by the authority shall be invested and held in the name of the authority, whether they are held for the benefit, security, or future payment to holders of bonds or to the state.

8.555. EXEMPTION FROM COMPETITIVE BIDDING REQUIREMENTS OF THE STATE. — The authority and contracts entered into by the authority in carrying out its public and essential governmental functions are exempt from the laws of the state which provide for competitive bids.

8.557. ANNUAL REPORT TO THE GENERAL ASSEMBLY TO BE SUBMITTED, CONTENT. — The authority shall submit to the general assembly, annually, a report covering its operations and accomplishments; receipts and expenditures, assets and liabilities, a schedule of its bonds outstanding and any other information the authority deems necessary.

8.560. NO BANKRUPTCY PETITION MAY BE FILED, WHEN. — Prior to the date which is three hundred sixty-six days after which the authority no longer has any bonds outstanding, the authority is prohibited from filing a voluntary petition pursuant to chapter 9 of the federal bankruptcy code or such corresponding chapter or section as may, from time to time, be in effect, and a public official or organization, entity, or other person shall not authorize the authority to be or become a debtor pursuant to chapter 9 or any successor or corresponding chapter or sections during such periods. The provisions of this section shall be part of any contractual obligation owed to the holders of bonds issued under sections 8.500 to 8.565 and shall not subsequently be modified by state law during the period of the contractual obligation.

8.565. DISSOLUTION OF AUTHORITY, WHEN — TRANSFER OF ASSETS UPON DISSOLUTION. — The authority shall dissolve no later than two years from the date of final payment of all outstanding bonds and the satisfaction of all outstanding obligations of the authority, except to the extent necessary to remain in existence to fulfill any outstanding covenants or provisions with bondholders or third parties made in accordance with sections 8.500 to 8.565. Upon dissolution of the authority, all assets of the authority shall be transferred to the state and shall be deposited in the state's general revenue fund, and the authority shall execute any necessary assignments or instruments, including any assignment of any right, title, or ownership to the state for receipt of payments under the master settlement agreement.

8.570. ISSUANCE OF BONDS BY BOARD OF PUBLIC BUILDINGS, USE OF PROCEEDS. — The board of public buildings may issue bonds payable from not more than thirty percent of the state's share; provided, and the maximum amount of the state's share sold by the authority pursuant to section 8.535 and by the board of public buildings pursuant to this section shall collectively not exceed thirty percent of the state's share. The proceeds from bonds issued by the board of public buildings under this section may be deposited directly to the general revenue fund or deposited to the tobacco bond proceeds fund hereby created and then transferred to the general revenue fund. Repayment of any bonds issued pursuant to this section may be made solely from such portion of the state's share, an appropriation specifically authorized for such purpose or from any appropriation from the state's share for any other purpose.

8.572. BOND ISSUANCE NOT DEEMED INDEBTEDNESS OF THE STATE OR BOARD OF PUBLIC BUILDINGS. — Any bonds issued by the board of public buildings pursuant to sections 8.570 to 8.590 shall not be deemed to be an indebtedness of the state of Missouri or of the board of public buildings, or of the individual members of the board of public buildings, and shall not be deemed to be an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness.

8.575. BOND REQUIREMENTS. — Bonds issued pursuant to the provisions of sections 8.570 to 8.590 shall be of such denomination or denominations, shall bear such rate or rates of interest not to exceed fifteen percent per annum, and shall mature at such time or times within forty-five years from the date thereof, as the board of public buildings determines. The bonds may be either serial bonds or term bonds. The sale of bonds issued pursuant to this section may be completed on a negotiated or competitive basis, but in no event shall such bonds be sold for less than ninety-five percent of the par value thereof, and accrued interest. The bonds, when issued and sold, shall be negotiable instruments within the meaning of the law merchant and the negotiable instruments law, and the interest thereon shall be exempt from income taxes pursuant to the laws of the state.

8.580. REFUNDING OF BONDS, WHEN, PROCEDURE. — 1. Bonds issued by the board of public buildings pursuant to the provisions of sections 8.570 to 8.590 may be refunded, in whole or in part, at any time whenever the board of public buildings determines that such a refunding is in the best interest of the state or the board of public buildings.

2. For the purpose of refunding any bonds issued hereunder, including refunding bonds, the board of public buildings may make and issue refunding bonds in the amount necessary to pay off and redeem the bonds to be refunded together with unpaid and past due interest thereon and any premium which may be due under the terms of the bonds, together also with the cost of issuing the refunding bonds, and may sell the same in like manner as is herein provided for the sale of bonds being refunded. Refunding bonds

issued pursuant to sections 8.500 to 8.590 shall be payable in not more than forty years from the date thereof and shall bear interest at a rate not to exceed fifteen percent per annum.

3. The refunding bonds shall be payable from the same sources as were pledged to the payment of the bonds refunded thereby and in the discretion of the board of public buildings, may be payable from any other sources which pursuant to sections 8.500 to 8.590 may be pledged to the payment of revenue bonds issued hereunder. Bonds of two or more issues may be refunded by a single issue of refunding bonds.

8.585. FORM DETAILS AND INCIDENTS OF BONDS TO BE PRESCRIBED BY BOARD OF PUBLIC BUILDINGS. — The board of public buildings may prescribe the form details and incidents of the bonds, and make the covenants that in its judgment are advisable or necessary properly to secure the payment thereof; but the form, details, incidents and covenants shall not be inconsistent with any of the provisions of sections 8.570 to 8.590. Such bonds may have the seal of the board of public buildings impressed thereon or affixed thereto or imprinted or otherwise reproduced thereon. If such bonds shall be authenticated by the bank or trust company acting as registrar for such bonds by the manual signature of a duly authorized officer or employee thereof, the duly authorized officers of the board of public buildings executing and attesting such bonds, may all do so by facsimile signature of public officials law, sections 105.273 to 105.278, RSMo, when duly authorized by resolution of the board of public buildings and the provisions of section 108.175, RSMo, shall not apply to such bonds. The holder or holders of any bond or bonds issued hereunder or of any coupons representing interest accrued thereon may, by proper civil action either at law or in equity, compel the board of public buildings to perform all duties imposed upon it and also to enforce the performance of any and all other covenants made by the board of public buildings in the issuance of the bonds.

8.590. RESOLUTION OF BOARD OF PUBLIC BUILDINGS REQUIRED FOR ISSUANCE OF BONDS. — Bonds may be issued pursuant to the provisions of sections 8.580 to 8.598 pursuant to a resolution adopted by the affirmative vote of two-thirds of the members of the board of public buildings and no other proceedings shall be required therefor.

8.592. ISSUANCE OF NOTES, MATURITY DATES — TRANSFER OF FUNDS TO SECURE NOTES. — The board of public buildings shall have the power to issue notes with a maturity of not more than one year from the date of issue for the purpose of preserving any expenditure of moneys from the state general revenue fund for reimbursement from the proceeds of any bonds issued pursuant to sections 8.500 to 8.565. The state may transfer to the board of public buildings funds designated in the state's budget for such expenditure for the purpose of securing such notes. The purpose for the issuance of such notes and the transfer of such moneys shall be to maximize the utilization of tax-exempt bonds by the tobacco settlement financing authority.

8.595. LIBERAL CONSTRUCTION OF ACT. — Sections 8.500 to 8.590, being deemed necessary for the public health, welfare, peace and safety shall be liberally construed to effect its purpose.

SECTION 1. ADVISORY COMMITTEE OF TOBACCO SECURITIZATION ESTABLISHED, MEMBERS, DUTIES. — 1. There is established a joint committee of the General Assembly to be known as the "Advisory Committee on Tobacco Securitization", to be comprised of five members of the senate and five members of the house of representatives. Three of the senate members shall be appointed by the president pro tem of the senate and two by

the senate minority leader. Three of the house members shall be appointed by the speaker of the house and two by the house minority leader. The appointment of each member shall continue during his or her term of office as a member of the general assembly or until a successor has been duly appointed to fill his or her place when his or her term of office as a member of the general assembly has expired.

2. The committee shall study and recommend who the financial advisors, investment bankers, and other professional advisors shall be for the Authority, and shall make a written report to the Authority within sixty days of passage of the bill. The committee shall also study and provide a written report by December 31 of each year to the Authority detailing suggested allowable projects and payments for which money from the tobacco settlement securitization settlement trust fund may be used in the next appropriation cycle.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure a balanced state budget, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect on May 17, 2002, or upon its passage and approval by the governor, whichever later occurs.

Approved June 7, 2002

SB 1199 [SB 1199]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates the portion of certain highways.

AN ACT to amend chapter 227, RSMo, by adding thereto two new sections relating to highways.

SECTION

- A. Enacting clause.
- 227.333. Sergeant Randy Sullivan Memorial Highway designated (Iron County).
- 1. Ozark Mills Country designated.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto two new sections, to be known as sections 227.333 and 1, to read as follows:

227.333. SERGEANT RANDY SULLIVAN MEMORIAL HIGHWAY DESIGNATED (IRON COUNTY). — The portion of state highway 72 in a county of the third classification without a township form of government and with more than ten thousand six hundred inhabitants but less than ten thousand seven hundred inhabitants and in a county of the third classification without a township form of government and with more than eleven thousand seven hundred fifty inhabitants but less than eleven thousand eight hundred fifty inhabitants shall be designated the "Sergeant Randy Sullivan Memorial Highway."

SECTION 1. OZARK MILLS COUNTRY DESIGNATED. — The portion of Ozark County north of U.S. highway 160, east of state routes 5 and 95, south of the Ozark and Douglas County line, and west of the Ozark and Howell County line shall be designated as "Ozark Mills Country".

Approved July 11, 2002

SB 1202 [CCS HCS SCS SB 1202]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Transfers various powers to the Department of Transportation to implement the Governor's executive order.

AN ACT to repeal sections 389.005 and 389.610, RSMo, and to enact in lieu thereof five new sections relating to the directives of executive order number 02-03, signed by the governor February 7, 2002, with an emergency clause.

SECTION

- A. Enacting clause.
- 104.805. Employees transferred to department of transportation (MoDOT) not members of closed highways and transportation employees' and highway patrol retirement system unless election made, procedure.
- 308.010. Responsibilities and authority of highways and transportation commission — transfer of authority to department of transportation.
- 389.005. Division, transferred to department of transportation.
- 389.610. Railroad crossings construction and maintenance, highways and transportation commission to have exclusive power to regulate and provide standards — apportionment of cost.
- 621.040. Administrative law judges of the division of motor carrier and railroad safety shall be commissioners of the administrative hearing commission — jurisdiction of administrative hearing commission.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 389.005 and 389.610, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 104.805, 308.010, 389.005, 389.610, and 621.040, to read as follows:

104.805. EMPLOYEES TRANSFERRED TO DEPARTMENT OF TRANSPORTATION (MoDOT) NOT MEMBERS OF CLOSED HIGHWAYS AND TRANSPORTATION EMPLOYEES' AND HIGHWAY PATROL RETIREMENT SYSTEM UNLESS ELECTION MADE, PROCEDURE. — **1. Employees who are earning creditable service in the closed plan of the Missouri state employees' retirement system and who are, as a result of the provisions of this act, transferred to the department of transportation will not become members of the closed plan of the highways and transportation employees' and highway patrol retirement system unless they elect to transfer membership and creditable service to the closed plan of the highways and transportation employees' and highway patrol retirement system. The election must be in writing and must be made within ninety days of the effective date of this act. Any election to transfer membership and creditable service to the highways and transportation employees' and highway patrol retirement system shall result in the forfeiture of any rights or benefits in the Missouri state employees' retirement system. Any failure to elect to transfer membership and creditable service pursuant to this subsection will result in the employees remaining in the closed plan of the Missouri state employees' retirement system.**

If an election is made, the effective date for commencement of membership and transfer of such creditable service shall be January 1, 2003.

2. Employees who are earning credited service in the year 2000 plan of the Missouri state employees' retirement system and who are, as a result of the provisions of this act, transferred to the department of transportation will remain in the year 2000 plan administered by the Missouri state employees' retirement system unless they elect to transfer membership and credited service to the year 2000 plan administered by the highways and transportation employees' and highway patrol retirement system. The election must be in writing and must be made within ninety days of the effective date of this act. Any election to transfer membership and credited service to the year 2000 plan administered by the highways and transportation employees' and highway patrol retirement system shall result in the forfeiture of any rights or benefits in the Missouri state employees' retirement system. Any failure to elect to transfer membership and credited service pursuant to this subsection will result in the employees remaining in the year 2000 plan administered by the Missouri state employees' retirement system. If an election is made, the effective date for commencement of membership and transfer of such creditable service shall be January 1, 2003.

3. For any employee who elects under subsection 1 or 2 of this section to transfer to the highways and transportation employees' and highway patrol retirement system, the Missouri state employees' retirement system shall pay to the highways and transportation employees' and highway patrol retirement system, by December 31, 2002, an amount actuarially determined to equal the liability transferred from the Missouri state employees' retirement system.

4. In no event shall any employee receive service credit for the same period of service under more than one retirement system as a result of the provisions of this section.

5. For any transferred employee who elects under subsection 1 or 2 of this section to transfer to the highways and transportation employee's and highway patrol retirement system, the only medical coverage available for the employee shall be the medical coverage provided in section 104.270, RSMo. The effective date for commencement of medical coverage shall be January 1, 2003. However, this does not preclude medical coverage for the transferred employee as a dependent under any other health care plan.

308.010. RESPONSIBILITIES AND AUTHORITY OF HIGHWAYS AND TRANSPORTATION COMMISSION — TRANSFER OF AUTHORITY TO DEPARTMENT OF TRANSPORTATION. — 1. The highways and transportation commission shall have responsibility and authority, as provided in this act, for the administration and enforcement of:

(1) Licensing, supervising and regulating motor carriers for the transportation of passengers, household goods and other property by motor vehicles within this state;

(2) Licensing motor carriers to transport hazardous waste, used oil, infectious waste and permitting waste tire haulers in intrastate or interstate commerce, or both, by motor vehicles within this state;

(3) Compliance by motor carriers and motor private carriers with applicable requirements relating to safety and hazardous materials transportation, within the terminals of motor carriers and motor private carriers of passengers or property;

(4) Compliance by motor carriers and motor private carriers with applicable requirements relating to safety and hazardous materials transportation wherever they possess, transport or deliver hazardous waste, used oil, infectious waste or waste tires. This authority is in addition to, and not exclusive of, the authority of the department of natural resources to ensure compliance with any and all applicable requirements related to the transportation of hazardous waste, used oil, infectious waste or waste tires;

(5) Collecting and regulating amounts payable to the state from interstate motor carriers in accordance with the provisions of the International Fuel Tax Agreement in

accordance with section 142.617, RSMo, and any successor or similar agreements, including the authority to impose and collect motor fuel taxes due pursuant to chapter 142, RSMo, and such agreement;

(6) Registering and regulating interstate commercial motor vehicles operated upon the highways of this state, in accordance with the provisions of the International Registration Plan in accordance with sections 301.271 through 301.277, RSMo, and any successor or similar agreements, including the authority to issue license plates in accordance with sections 301.130 and 301.041, RSMo;

(7) Permitting the transportation of over dimension or overweight motor vehicles or loads that exceed the maximum weights or dimensions otherwise allowed upon the public highways within the jurisdiction of the highways and transportation commission; and

(8) Licensing intrastate house movers.

2. The highways and transportation commission shall carry out all powers, duties and functions relating to intrastate and interstate transportation previously performed by:

(1) The division of motor carrier and railroad safety within the department of economic development, and all officers or employees of that division;

(2) The department of natural resources, and all officers or employees of that division, relating to the issuance of licenses or permits to transport hazardous waste, used oil, infectious waste or waste tires by motor vehicles operating within the state;

(3) The highway reciprocity commission within the department of revenue, and all officers or employees of that commission; and the director of revenue's powers, duties and functions relating to the highway reciprocity commission, except that the highways and transportation commission may allow the department of revenue to enforce the provisions of the International Fuel Tax Agreement, as required by such agreement; and

(4) The motor carrier services unit within the traffic functional unit of the department of transportation, relating to the special permitting of operations on state highways of motor vehicles or loads that exceed the maximum length, width, height or weight limits established by law or by the highways and transportation commission.

3. All the powers, duties and functions described in subsections 1 and 2 of this section, including but not limited to, all powers, duties and functions pursuant to chapters 387, 390 and 622, RSMo, including all rules and orders, are hereby transferred to the department of transportation, which is in the charge of the highways and transportation commission, by type I transfer, as defined in the Omnibus State Reorganization Act of 1974, and the preceding agencies and officers shall no longer be responsible for those powers, duties and functions.

4. All the powers, duties and functions, including all rules and orders, of the administrative law judges of the division of motor carrier and railroad safety, as amended by the provisions of this act, are hereby transferred to the administrative hearing commission within the state office of administration.

5. The division of motor carrier and railroad safety and the highway reciprocity commission are abolished.

6. Personnel previously employed by the division of motor carrier and railroad safety and the highway reciprocity commission shall be transferred to the department of transportation, but the department of natural resources shall not be required to transfer any personnel pursuant to this section. The administrative law judge within the division of motor carrier and railroad safety shall be transferred to the administrative hearing commission.

7. Credentials issued by the transferring agencies or officials before the effective date of this act shall remain in force or expire as provided by law. In addition, the highways and transportation commission shall have the authority to suspend, cancel or revoke such credentials after the effective date of this act.

8. Notwithstanding any provision of law to the contrary, on and after the effective date of this section all surety bonds, cash bonds, certificates of deposit, letters of credit, drafts, checks or other financial instruments payable to:

(1) The highway reciprocity commission or the department of revenue pursuant to section 301.041, RSMo, or pursuant to the International Fuel Tax Agreement; or

(2) Any other agency or official whose powers, duties or functions are transferred pursuant to this section, shall be payable instead to the state highways and transportation commission.

9. The department of natural resources shall have authority to collect and establish by rule the amount of the fee paid by applicants for a permit to transport waste tires.

10. The Missouri hazardous waste management commission created in section 260.365, RSMo, shall have the authority to collect and establish by rule the amount of the fee paid by applicants for a license to transport hazardous waste, used oil, or infectious waste pursuant to section 260.395, RSMo.

389.005. DIVISION, TRANSFERRED TO DEPARTMENT OF TRANSPORTATION. — [The term "division", as used in this chapter, means the division of motor carrier and railroad safety within the department of economic development, unless such use is clearly contrary to the context.] Except as otherwise provided in this act, all the powers, duties and functions of the division of motor carrier and railroad safety relating to rail transportation activities, including all rules and orders, as provided in this chapter and chapters 388, 391 and 622, RSMo, are hereby transferred to the department of transportation, which is in the charge of the highways and transportation commission, by type I transfer as set forth in the Omnibus State Reorganization Act of 1974. Except as otherwise provided, all personnel of the division of motor carrier and railroad safety are transferred to the department of transportation by section 308.010, RSMo, except that the administrative law judge is transferred by section 308.010, RSMo, to the administrative hearing commission.

389.610. RAILROAD CROSSINGS CONSTRUCTION AND MAINTENANCE, HIGHWAYS AND TRANSPORTATION COMMISSION TO HAVE EXCLUSIVE POWER TO REGULATE AND PROVIDE STANDARDS — APPORTIONMENT OF COST. — 1. No public road, highway or street shall be constructed across the track of any railroad corporation, nor shall the track of any railroad corporation be constructed across a public road, highway or street, nor shall the track of any railroad corporation be constructed across the track of any other railroad or street railroad corporation at grade nor shall the track of a street railroad corporation be constructed across the tracks of a railroad corporation at grade, without having first secured the permission of the [division of motor carrier and railroad safety] **highways and transportation commission**, except that this subsection shall not apply to the replacement of lawfully existing tracks. The [division] **commission** shall have the right to refuse its permission or to grant it upon such terms and conditions as it may prescribe.

2. Every railroad corporation shall construct and maintain good and sufficient crossings and crosswalks where its railroad crosses public roads, highways, streets or sidewalks now or hereafter to be opened.

3. The [division of motor carrier and railroad safety] **highways and transportation commission** shall make and enforce reasonable rules and regulations pertaining to the construction and maintenance of all public grade crossings. These rules and regulations shall establish minimum standards for:

- (1) The materials to be used in the crossing surface;
- (2) The length and width of the crossing;
- (3) The approach grades;
- (4) The party or parties responsible for maintenance of the approaches and the crossing surfaces.

4. The [division] **highways and transportation commission** shall have the exclusive power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, apportionment of expenses, use and warning devices of each crossing of a public road, street or highway by a railroad or street railroad, and of one railroad or street railroad by another railroad or street railroad. In order to facilitate such determinations, the [division] **highways and transportation commission** may adopt pertinent provisions of The Manual on Uniform Traffic Control Devices for Streets and Highways or other national standards.

5. The [division] **highways and transportation commission** shall have the exclusive power to alter or abolish any crossing, at grade or otherwise, of a railroad or street railroad by a public road, highway or street whenever the [division] **highways and transportation commission** finds that public necessity will not be adversely affected and public safety will be promoted by so altering or abolishing such crossing, and to require, where, in its judgment it would be practicable, a separation of grades at any crossing heretofore or hereafter established, and to prescribe the terms upon which such separation shall be made.

6. The [division] **highways and transportation commission** shall have the exclusive power to prescribe the proportion in which the expense of the construction, installation, alteration or abolition of such crossings, the separation of grades, and the continued maintenance thereof, shall be divided between the railroad, street railroad, and the state, county, municipality or other public authority in interest.

7. Any agreement entered into after October 13, 1963, between a railroad or street railroad and the state, county, municipality or other public authority in interest, as to the apportionment of any cost mentioned in this section shall be final and binding upon the filing with the [division] **highways and transportation commission** of an executed copy of such agreement. If such parties are unable to agree upon the apportionment of the cost, the [division] **highways and transportation commission** shall apportion the cost among the parties according to the benefits accruing to each. In determining such benefits, the [division] **highways and transportation commission** shall consider all relevant factors including volume, speed and type of vehicular traffic, volume, speed and type of train traffic, and advantages to the public and to such railroad or street railroad resulting from the elimination of delays and the reduction of hazard at the crossing.

8. Upon application of any person, firm or corporation, the [division] **highways and transportation commission** shall determine if an existing private crossing has become or a proposed private crossing will become utilized by the public to the extent that it is necessary to protect or promote the public safety. The [division] **highways and transportation commission** shall consider all relevant factors including but not limited to volume, speed, and type of vehicular traffic, and volume, speed, and type of train traffic. If it be determined that it is necessary to protect and promote the public safety, the [division] **highways and transportation commission** shall prescribe the nature and type of crossing protection or warning device for such crossing, the cost of which shall be apportioned by the [division] **highways and transportation commission** among the parties according to the benefits accruing to each. In the event such crossing protection or warning device as prescribed by the [division] **highways and transportation commission** is not installed, maintained or operated, the crossing shall be closed to the public.

9. The exclusive power of the highways and transportation commission pursuant to this section shall be subject to review, determination, and prescription by the administrative hearing commission, upon application to that commission by any interested party. Upon filing of an application pursuant to this subsection, the administrative hearing commission is vested with the exclusive power of the highways and transportation commission otherwise provided in this section, with reference to matters reviewed, determined or prescribed by the administrative hearing commission.

621.040. ADMINISTRATIVE LAW JUDGES OF THE DIVISION OF MOTOR CARRIER AND RAILROAD SAFETY SHALL BE COMMISSIONERS OF THE ADMINISTRATIVE HEARING COMMISSION — JURISDICTION OF ADMINISTRATIVE HEARING COMMISSION. — Notwithstanding the provisions of chapter 621.015, to the contrary, after the effective date of this act, all individuals authorized on that date as administrative law judges of the division of motor carrier and railroad safety within the department of economic development shall be commissioners of the administrative hearing commission within the office of administration, and shall serve out the unexpired remainder of their terms as commissioners. They shall have the same powers, duties, functions, and compensation as provided by law for the other commissioners, and after the expiration of their terms they may be reappointed in the same manner as other commissioners. The administrative hearing commission shall have jurisdiction to conduct hearings, make findings of fact and conclusions of law, and issue orders in all applicable cases relating to motor carrier and railroad regulation transferred to the highways and transportation commission pursuant to this act, except that, notwithstanding any provision of law to the contrary, the highways and transportation commission may issue final agency orders without involvement of the administrative hearing commission in relation to:

- (1) Uncontested motor carrier cases, and other uncontested motor carrier matters, or in which all parties have waived a hearing in writing; and
- (2) Approval of settlement agreements or issuance of consent orders in motor carrier or railroad enforcement cases, if all parties have consented in writing to the issuance of the commissioner's order.

SECTION B. EMERGENCY CLAUSE. — Because of the need to ensure safe and efficient administration of commercial motor vehicles within this state, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval, or July 1, 2002, whichever later occurs.

Approved July 11, 2002

SB 1207 [SCS SB 1207]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires the State Board of Registration for the Healing Arts to accept continuing medical education on autism.

AN ACT to amend chapter 334, RSMo, by adding thereto one new section relating to continuing medical education on autism.

SECTION

- A. Enacting clause.
- 334.073. Continuing medical education on autism required.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 334, RSMo, is amended by adding thereto one new section, to be known as section 334.073, to read as follows:

334.073. CONTINUING MEDICAL EDUCATION ON AUTISM REQUIRED. — Pursuant to the requirements of 4 CSR 150-2.125, the state board of registration for the healing arts shall accept toward the fifty-hour license renewal requirement, continuing medical education courses which have an emphasis on the early diagnosis and treatment of autism in children.

Approved July 2, 2002

SB 1210 [HCS SCS SB 1210]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Permits certain counties and cites to impose a tourism sales tax.

AN ACT to repeal sections 92.327 and 92.336, RSMo, relating to taxes for the promotion of tourism, and to enact in lieu thereof three new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 67.1361. Tax on charges for sleeping rooms for certain counties and cities (Buchanan County and City of St. Joseph).
- 92.327. Convention and tourism tax, submitted to voters — rate of tax, deposit in convention tourism fund, purpose.
- 92.336. Revenue received from tax, distribution, requirements — neighborhood tourist development fund established, purpose.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 92.327 and 92.336, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 67.1361, 92.327 and 92.336, to read as follows:

67.1361. TAX ON CHARGES FOR SLEEPING ROOMS FOR CERTAIN COUNTIES AND CITIES (BUCHANAN COUNTY AND CITY OF ST. JOSEPH). — 1. The governing body of any county of the first classification without a charter form of government and with more than eighty-five thousand nine hundred but less than eighty-six thousand inhabitants and the governing body of any home rule city with more than seventy-three thousand nine hundred but less than seventy-four thousand inhabitants may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels, motels, bed and breakfast inns and campgrounds and any docking facility which rents slips to recreational boats which are used by transients for sleeping, which shall be at least two percent, but not more than eight percent per occupied room or slip per night, except that such tax shall not become effective unless the governing body of the county or city submits to the voters of the county or city at a state general, primary or special election, a proposal to authorize the governing body of the county or city to impose a tax pursuant to this section. The tax authorized by this section shall be in addition to any charge paid to the owner or operator and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county for funding the promotion of tourism and convention facilities. Such tax shall be stated separately from all other charges and taxes.

2. Any tax imposed by a county pursuant to subsection 1 of this section shall apply only to unincorporated areas of such county.

3. The question shall be submitted in substantially the following form:

Shall the (city or county) levy a tax of percent on each sleeping room or campsite occupied and rented by transient guests and any docking facility which rents slips to recreational boats which are used by transients for sleeping in the (city or county), where the proceeds of which shall be expended for promotion of tourism and convention facilities?

☐ YES

☐ NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the governing body for the city or county shall have no power to impose the tax authorized by this section unless and until the governing body of the city or county again submits the question to the qualified voters of the city or county and such question is approved by a majority of the qualified voters voting on the question.

4. On and after the effective date of any tax authorized under the provisions of this section, the city or county may adopt one of the two following provisions for the collection and administration of the tax:

(1) The city or county may adopt rules and regulations for the internal collection of such tax by the city or county officers usually responsible for collection and administration of city or county taxes; or

(2) The city or county enter into an agreement with the director of revenue of the state of Missouri for the purpose of collecting the tax authorized in this section. In the event any city or county enters into an agreement with the director of revenue of the state of Missouri for the collection of the tax authorized in this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement and operation of such tax, and the director of revenue shall collect the additional tax authorized under the provisions of this section. The tax authorized under the provisions of this section shall be collected and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue, and the director of revenue shall retain an amount not to exceed one percent for cost of collection.

5. If a tax is imposed by a city or county under this section, the city or county may collect a penalty of one percent and interest not to exceed two percent per month on unpaid taxes which shall be considered delinquent thirty days after the last day of each quarter.

6. As used in this section "transient guests" means a person or persons who occupy room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

92.327. CONVENTION AND TOURISM TAX, SUBMITTED TO VOTERS — RATE OF TAX, DEPOSIT IN CONVENTION TOURISM FUND, PURPOSE. — 1. Any city may submit a proposition to the voters of such city:

(1) A tax not to exceed [six] ~~seven~~ and one-half percent of the amount of sales or charges for all sleeping rooms paid by the transient guests of hotels, motels and tourist courts situated within the city involved, and doing business within such city (excluding sales tax); and

(2) A tax not to exceed [one and three-fourths] ~~two~~ percent of the gross receipts derived from the retail sales of food by every person operating a food establishment.

2. Such taxes shall be known as the "convention and tourism tax" and when collected shall be deposited by the city treasurer in a separate fund to be known as the "Convention and Tourism Fund". The governing body of the city shall appropriate from the convention and tourism fund as provided in sections 92.325 to 92.340.

92.336. REVENUE RECEIVED FROM TAX, DISTRIBUTION, REQUIREMENTS — NEIGHBORHOOD TOURIST DEVELOPMENT FUND ESTABLISHED, PURPOSE. — The revenues received from the tax authorized under sections 92.325 to 92.340 shall be used exclusively for the advertising and promotion of convention and tourism business **and international trade** for the city from which it is collected, subject to the following requirements:

(1) Not less than forty percent of the proceeds of any tax imposed pursuant to subdivision (1) of section 92.327 shall be appropriated and paid to a general not for profit organization, with whom the city has contracted, and which is incorporated in the state of Missouri and located within the city limits of such city, established for the purpose of promoting such city as a convention, visitors and tourist center with the balance to be used for operating expenses and capital expenditures, including debt service, for sports, convention, exhibition, trade and tourism facilities located within the city limits of the city;

(2) Not less than ten percent of the proceeds of any tax imposed pursuant to subdivision (1) of section 92.327 shall be appropriated to a fund that hereby shall be established and called the "Neighborhood Tourist Development Fund". Such moneys from said funds shall be paid to not-for-profit neighborhood organizations with whom the city has contracted, and which are incorporated in the state of Missouri and located within the city limits of such city established for the purpose of promoting such neighborhood through cultural, social, ethnic, historic, educational, and recreational activities in conjunction with promoting such city as [a] **an international trade**, convention, visitors and tourist center;

(3) The proceeds of any tax imposed pursuant to subdivision (2) of section 92.327 shall be used by the city only for capital expenditures, including debt service, for sports, convention, exhibition, trade and tourism facilities located within the city limits of the city.

Approved June 12, 2002

SB 1213 [HCS SB 1213]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires railroad policemen to be commissioned.

AN ACT to repeal sections 388.610 and 388.640, RSMo, and to enact in lieu thereof two new sections relating to railroad corporations.

SECTION

A. Enacting clause.

388.610. Director of department of public safety to appoint — commissions, oath, bond of appointees.

388.640. License as peace officer required.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 388.610 and 388.640, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 388.610 and 388.640, to read as follows:

388.610. DIRECTOR OF DEPARTMENT OF PUBLIC SAFETY TO APPOINT — COMMISSIONS, OATH, BOND OF APPOINTEES. — The [superintendent of the Missouri state highway patrol] **director of the department of public safety** shall approve applications and appoint such railroad policemen as he deems proper, taking into consideration, among other things, the

education, training and experience of each person so appointed concerning the powers of peace officers and the limitations on powers of peace officers in regard to the constitutional rights of citizens to be secure in their persons and property. Those approved [and], appointed, **and commissioned** by the [superintendent of the Missouri state highway patrol] **director of the department of public safety** shall be issued commissions by the [superintendent of the Missouri state highway patrol] **director of the department of public safety**, and each of them, before entering into the performance of his duties, shall subscribe before the clerk of a circuit court of this state, an oath in the form prescribed by section 11, article VII, of the constitution of this state, to support the constitution and laws of the United States and the state of Missouri, to faithfully demean himself in the office and to faithfully perform the duties of the office, and each of them shall enter into a surety bond in the sum of ten thousand dollars payable to the state of Missouri, conditioned upon the faithful performance of his duties. The executed oath of office, together with a copy of the commission and the bond, shall be filed with the [office of the superintendent of the Missouri state highway patrol] **director of the department of public safety** until the commission is terminated or revoked as provided [herein.] **in this section. As used in this section relating to railroad policemen, the word "commission" means a grant of authority to act as a peace officer.**

388.640. LICENSE AS PEACE OFFICER REQUIRED. — All railroad policemen who become employed after September 28, 1971, shall, before appointment, [attend a law enforcement training course upon payment by his railroad of such reasonable fees as the director or managing officer of such school shall fix] **be a licensed peace officer in accordance with the provisions of chapter 590, RSMo.**

Approved July 10, 2002

SB 1217 [SB 1217]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Clarifies the deadline for filing tangible personal property lists.

AN ACT to repeal section 137.495, RSMo, and to enact in lieu thereof one new section relating to tangible personal property listings.

SECTION

A. Enacting clause.

137.495. Property owners to file return listing tangible personal property, when — filing on next business day when filing date is on a Saturday or Sunday.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 137.495, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.495, to read as follows:

137.495. PROPERTY OWNERS TO FILE RETURN LISTING TANGIBLE PERSONAL PROPERTY, WHEN — FILING ON NEXT BUSINESS DAY WHEN FILING DATE IS ON A SATURDAY OR SUNDAY. — Every person, corporation, partnership or association, subject to taxation [under] **pursuant to** the laws of this state and owning or controlling tangible personal property taxable by the cities shall file with the assessor of the cities a return listing all such tangible personal

property so owned or controlled on January first of each year and estimating the true value thereof in money. The return shall be filed between the first day of January and the first day of April of each year, shall be signed by the taxpayer, and shall be certified by the taxpayer as being a true and complete list and statement of all the tangible personal property and the estimated value thereof. **If the first day of April is a Saturday or Sunday, the last day for filing shall be the next business day.**

Approved June 28, 2002

SB 1241 [SCS SB 1241, 1253 & 1189]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates a Breast Cancer Awareness special license plate.

AN ACT to amend chapter 301, RSMo, by adding thereto five new sections relating to special license plates.

SECTION

- A. Enacting clause.
- 301.2999. Limitation on special license plates, organization authorizing use of its emblem for a fee.
- 301.3086. Delta Sigma Theta and Omega Psi Phi special license plates, application, fee.
- 301.3098. Kingdom of Calontir special license plate, application, fee.
- 301.3099. Missouri Civil War Reenactors Association special license plate, application, fee.
- 301.3112. Friends of the Missouri Women's Council special license plate, application, fee.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 301, RSMo, is amended by adding thereto five new sections, to be known as sections 301.2999, 301.3086, 301.3098, 301.3099 and 301.3112, to read as follows:

301.2999. LIMITATION ON SPECIAL LICENSE PLATES, ORGANIZATION AUTHORIZING USE OF ITS EMBLEM FOR A FEE. — **No specialized license plate shall be issued after January 1, 2002, by the director of revenue which proposes to raise revenue or funds for an organization which authorizes the use of its emblem for a fee unless such organization is a governmental entity or is an organization registered pursuant to section 501(c)(3) of the 1986 Internal Revenue Code, as amended, or an equivalent law which applies to such not-for-profit entity. Any organization which raises revenues or funds through the sponsorship of specialized license plates issued pursuant to the provisions of this chapter enacted prior to January 1, 2002, shall have until January 1, 2004, to comply with the provisions of this section. The director shall verify that all organizations that are paid fees for the use of their emblems for specialized license plates are complying with the provisions of this section. The director shall require all organizations which receive revenues for funds for the use of their emblems to verify their status as a governmental entity or a not-for-profit organization, in a format prescribed by the director. Any specialized license plates issued prior to January 1, 2004, shall remain valid for the period in which they were registered, regardless of the status of the sponsoring organization.**

301.3086. DELTA SIGMA THETA AND OMEGA PSI PHI SPECIAL LICENSE PLATES, APPLICATION, FEE. — **1. Any current member or alumnus of the Delta Sigma Theta or**

Omega Psi Phi Greek organizations at any college or university within this state may apply for special motor vehicle license plates for any vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the appropriate organization. Delta Sigma Theta and Omega Psi Phi hereby authorize the use of their official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Delta Sigma Theta or Omega Psi Phi derived from this section, except reasonable administrative costs, shall be used solely for the purposes of those organizations. Any member of Delta Sigma Theta or Omega Psi Phi may annually apply for the use of the organization's emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Delta Sigma Theta or Omega Psi Phi, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of Delta Sigma Theta or Omega Psi Phi. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Delta Sigma Theta or Omega Psi Phi emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Delta Sigma Theta or Omega Psi Phi emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3098. KINGDOM OF CALONTIR SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of the Kingdom of Calontir may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Kingdom of Calontir, a subdivision of the Society for Creative Anachronism, of which the person is a member. The Kingdom of Calontir hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Kingdom of Calontir derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Kingdom of Calontir. Any member of the Kingdom of Calontir may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Kingdom of Calontir, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Kingdom of Calontir. Such license plates shall be made with fully reflective

material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Society for Creative Anachronism emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Society for Creative Anachronism emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3099. MISSOURI CIVIL WAR REENACTORS ASSOCIATION SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of the Missouri Civil War Reenactors Association may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Missouri Civil War Reenactors Association of which the person is a member. The Missouri Civil War Reenactors Association hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Missouri Civil War Reenactors Association derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Missouri Civil War Reenactors Association. Any member of the Missouri Civil War Reenactors Association may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Missouri Civil War Reenactors Association, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Missouri Civil War Reenactors Association. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Missouri Civil War Reenactors Association emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Missouri Civil War Reenactors Association emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3112. FRIENDS OF THE MISSOURI WOMEN'S COUNCIL SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any person may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an

apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual contribution of an emblem-use authorization fee to the Friends of the Missouri Women's Council. Any contribution given pursuant to this section shall be designated for breast cancer services only. The Friends of the Missouri Women's Council hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Friends of the Missouri Women's Council derived from this section, except reasonable administrative costs, shall be used solely for the purpose of providing breast cancer services. Any person may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Friends of the Missouri Women's Council, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Friends of the Missouri Women's Council and shall bear the words "BREAST CANCER AWARENESS" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Friends of the Missouri Women's Council emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Friends of the Missouri Women's Council emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

Approved July 12, 2002

SB 1243 [SB 1243]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes term "innkeeper" to "lodging establishment" and changes posting of notice requirements for lodging establishments.

AN ACT to repeal sections 419.010, 419.020, 419.030 and 419.040, RSMo, relating to lodging establishments, and to enact in lieu thereof four new sections relating to the same subject.

SECTION

A. Enacting clause.

419.010. Lodging establishment liable, when — defined.

419.020. Lodging establishment not liable, when.

419.030. Lodging establishment not liable for baggage, when.

419.040. Rates — duty to post.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 419.010, 419.020, 419.030 and 419.040, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 419.010, 419.020, 419.030 and 419.040, to read as follows:

419.010. LODGING ESTABLISHMENT LIABLE, WHEN — DEFINED. — **1.** As used in this chapter, the term "lodging establishment" shall be any building, group of buildings, structure, facility, place, or places of business where five or more guest rooms are provided, which is owned, maintained, or operated by any person and which is kept, used, maintained, advertised or held out to the public for hire which can be construed to be a hotel, motel, motor hotel, apartment hotel, tourist court, resort, cabins, tourist home, bunkhouse, dormitory, or other similar place by whatever name called, and includes all such accommodations operated for hire as lodging establishments for either transient guests, permanent guests, or for both transient and permanent guests.

2. No [hotel or innkeeper] **lodging establishment** in this state is liable for the loss of any money, jewelry, wearing apparel, baggage or other property of a guest in a total sum greater than two hundred dollars, unless the [hotel keeper or innkeeper] **lodging establishment** by an agreement in writing individually, or by the authorized agent or clerk in charge of the office of the [hotel or inn] **lodging establishment**, voluntarily assumes a greater liability with reference to such property. As regards money, jewelry or baggage, [an hotel keeper or innkeeper] **a lodging establishment** is not liable in any event for the loss thereof or damage thereto, unless the same was actually delivered by the guest to him or his authorized agent, or clerk, in the office of the [hotel or inn] **lodging establishment**, and the receipt thereof acknowledged by the delivery to the guest of a claim check of the [hotel keeper or innkeeper] **lodging establishment**, unless the loss or damage occurs through the willful negligence or wrongdoing of the [hotel keeper or innkeeper] **lodging establishment**, his servants or employees. This section shall be posted in [the office of every hotel and inn] **a conspicuous manner at the guest registration desk** and in every guest room thereof, and unless so posted the same does not apply in the case of [hotel keepers or innkeepers] **a lodging establishment** failing to post same.

419.020. LODGING ESTABLISHMENT NOT LIABLE, WHEN. — No [innkeeper] **lodging establishment** in this state, [who] **which** shall constantly have [in his inn an iron] **a safe**, in good order, and suitable for the safe custody of money, jewelry and articles of gold and silver manufacture, and of the like, and [who] **which** shall keep a copy of sections 419.020 and 419.030 printed [by itself,] in large plain English type, [and framed,] constantly and conspicuously suspended [in the office, barroom, saloon, reading, sitting and parlor room of his inn, and also a copy printed by itself, in ordinary sized plain English type, posted upon the inside of the entrance door of every public sleeping room of his inn] **at the guest registration desk and in every guest room of the lodging establishment**, shall be liable for the loss of any such articles aforesaid, suffered by any guest, unless such guest shall have first offered to deliver such property lost by him **or her** to such [innkeeper] **lodging establishment**, for custody in such [iron] safe, and such [innkeeper] **lodging establishment** shall have refused or omitted to take it and deposit it in such safe for its custody and to give such guest a receipt therefor.

419.030. LODGING ESTABLISHMENT NOT LIABLE FOR BAGGAGE, WHEN. — No [innkeeper] **lodging establishment** in this state shall be liable for the loss of any baggage or other property of a guest, caused by fire not intentionally produced by the [innkeeper] **lodging establishment** or [his] **its** servants, nor shall he be liable for the loss of any merchandise for sale or sample belonging to a guest, unless the guest shall have given written notice of having such merchandise for sale or sample in his possession after entering the [inn] **lodging establishment**,

nor shall the [innkeeper] **lodging establishment** be compelled to receive such guest with merchandise for sale or sample; but [innkeepers] **lodging establishment** shall be liable for the losses of their guests, caused by the theft of such [innkeeper] **lodging establishment** or [his] its servants, anything herein to the contrary notwithstanding.

419.040. RATES — DUTY TO POST. — It shall be the duty of every [hotel keeper] **lodging establishment** in this state to post a written or printed copy of the rates charged for [board and lodging by such hotel] **each guest room**, in each **guest room** and [office or lobby of such hotel or boarding house]; provided, that where a different rate is charged for different rooms in such [hotel] **lodging establishment** the rate posted in each room shall be the rate which shall apply to such room; and provided further, that this law shall not apply to [hotels] **lodging establishments** which do not have more than ten [boarders or roomers or] guests on an average each day.

Approved June 12, 2002

SB 1244 [HCS SB 1244]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows the continuation of a newborn hearing screening from a transferring facility to a receiving facility.

AN ACT to repeal section 191.925, RSMo, relating to the newborn hearing screening program, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

191.925. Screening for hearing loss, infants, when — procedures used — exemptions — information provided, by whom — no liability, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 191.925, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 191.925, to read as follows:

191.925. SCREENING FOR HEARING LOSS, INFANTS, WHEN — PROCEDURES USED — EXEMPTIONS — INFORMATION PROVIDED, BY WHOM — NO LIABILITY, WHEN. — 1. Effective January 1, 2002, every infant born in this state shall be screened for hearing loss in accordance with the provisions of sections [191.225] **191.925** to 191.937 and section 376.685, RSMo.

2. The screening procedure shall include the use of at least one of the following physiological technologies:

- (1) Automated or diagnostic auditory brainstem response (ABR);
- (2) Otoacoustic emissions (SOAE); or
- (3) Other technologies approved by the department of health and senior services.

3. Every newborn delivered on or after January 1, 2002, in an ambulatory surgical center or hospital shall be screened for hearing loss prior to discharge of the infant from the facility. **Any facility that transfers a newborn for further acute care prior to completion of the**

newborn hearing screening shall notify the receiving facility of the status of the newborn hearing screening. The receiving facility shall be responsible for the completion of the newborn hearing screening. Such facilities shall report the screening results on all newborns to the parents or guardian of the newborn, and the department of health and senior services in a manner prescribed by the department.

4. If a newborn is delivered in a place other than the facilities listed in subsection 3 of this section, the physician or person who professionally undertakes the pediatric care of the infant shall ensure that the newborn hearing screening is performed within three months of the date of the infant's birth. Such physicians and persons shall report the screening results on all newborns to the parents or guardian of the newborn, and the department of health and senior services in a manner prescribed by the department.

5. The provisions of this section shall not apply if the parents of the newborn or infant object to such testing on the grounds that such tests conflict with their religious tenets and practices.

6. As provided in subsection 5 of this section, the parent of any child who fails to have the hearing screening test administered after notice of the requirement for such test shall have such refusal documented in writing. Such physicians, persons or administrators shall obtain the written refusal and make such refusal part of the medical record of the infant, and shall report such refusal to the department of health and senior services in a manner prescribed by the department.

7. The physician or person who professionally undertakes the pediatric care of the newborn, and administrators of ambulatory surgical centers or hospitals shall provide to the parents or guardians of newborns a written packet of educational information developed and supplied by the department of health and senior services describing the screening, how it is conducted, the nature of the hearing loss, and the possible consequences of treatment and nontreatment for hearing loss prior to administering the screening.

8. All facilities or persons described in subsections 3 and 4 of this section who voluntarily provide hearing screening to newborns prior to January 1, 2002, shall report such screening results to the department of health in a manner prescribed by the department.

9. All facilities or persons described in subsections 3 and 4 of this section shall provide the parents or guardians of newborns who fail the hearing screening with educational materials that:

- (1) Communicate the importance of obtaining further hearing screening or diagnostic audiological assessment to confirm or rule out hearing loss;
- (2) Identify community resources available to provide rescreening and diagnostic audiological assessments; and
- (3) Provide other information as prescribed by the department of health and senior services.

10. Any person who acts in good faith in complying with the provisions of this section by reporting the newborn hearing screening results to the department of health and senior services shall not be civilly or criminally liable for furnishing the information required by this section.

11. The department of health and senior services shall provide audiological and administrative technical support to facilities and persons implementing the requirements of this section, including, but not limited to, assistance in:

- (1) Selecting state-of-the-art newborn hearing screening equipment;
 - (2) Developing and implementing newborn hearing screening procedures that result in appropriate failure rates;
 - (3) Developing and implementing training for individuals administering screening procedures;
 - (4) Developing and distributing educational materials for families;
 - (5) Identifying community resources for delivery of rescreening and pediatric audiological assessment services; and
 - (6) Implementing reporting requirements.
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Such audiological technical support shall be provided by individuals qualified to administer newborn and infant hearing screening, rescreening and diagnostic audiological assessment.

Approved June 27, 2002

SB 1247 [SB 1247]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires the Kansas City Firefighters Pension Fund to recognize domestic relations orders.

AN ACT to amend chapter 87, RSMo, by adding thereto one new section relating to the division of certain pension benefits.

SECTION

- A. Enacting clause.
87.487. Fund subject to domestic relations order (Kansas City).

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 87, RSMo, is amended by adding thereto one new section, to be known as section 87.487, to read as follows:

87.487. FUND SUBJECT TO DOMESTIC RELATIONS ORDER (KANSAS CITY). — The provisions of section 87.485 to the contrary notwithstanding, a pension fund for firefighters located in a home rule city with a population of more than four hundred thousand inhabitants and located in more than one county shall recognize a domestic relations order and pay pension benefits directly to a spouse or former spouse of a participant, if such domestic relations order assigns a spouse or former spouse all or a portion of a participant's pension benefits payable by the pension fund, is properly entered in a court of competent jurisdiction in accordance with the state's domestic relation's law and complies with the rules and procedures of the pension fund.

Approved July 12, 2002

SB 1248 [CCS HS HCS SS SB 1248]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the Schools of the Future Fund and provides various funding sources for it.

AN ACT to repeal sections 143.121, 143.811, 313.300, 447.532, 470.010, 470.020, 470.030, 470.040, 470.050, 470.060, 470.070, 470.080, 470.130, 470.150, 470.190, 470.200, 470.210, 470.220, 470.230, 470.240, 470.250, 470.260, 470.270, 470.280, 470.290, 470.300, 470.310, 470.320, 470.330, 470.340, 470.350 and 542.301, RSMo, and to enact

in lieu thereof thirty-five new sections relating to certain funds for public elementary and secondary education, with an emergency clause.

SECTION

- A. Enacting clause.
- 32.068. Annual rate of interest to be calculated, director of revenue to apply rate, when.
- 32.069. Interest allowed and paid on refund or overpayment of interest paid in excess of annual interest rate.
- 136.320. Amnesty to apply to certain taxes — conditions for granting — payments to be deposited in schools of the future fund — rulemaking authority.
- 143.121. Missouri adjusted gross income.
- 143.122. Estimate of additional income tax revenues for fiscal year 2003 — transfer of \$27,000,000 into schools of the future fund from general revenue.
- 143.811. Interest on overpayment.
- 313.300. Unclaimed prizes — transfer to lottery proceeds fund and schools of the future fund.
- 313.301. \$5,000,000 transferred from lottery proceeds fund to schools of the future fund in fiscal year 2003.
- 338.500. Gross retail prescriptions, tax imposed, definitions.
- 338.501. Use of tax proceeds.
- 338.505. Formula for tax liability, rulemaking authority, appeals procedure.
- 338.510. Records to be maintained, form — report of gross receipts, information — confidentiality of information.
- 338.515. Effective date of tax.
- 338.520. Calculation of tax liability — notification to pharmacies.
- 338.525. Credit for gross receipts included in assessment for federal reimbursement allowance or nursing facility reimbursement allowance.
- 338.530. Offset against Medicaid payments due by pharmacy permitted, when.
- 338.535. Remittance to department — pharmacy reimbursement allowance fund created.
- 338.540. Notice requirements — unpaid or delinquent taxes, procedure for collection — failure to pay taxes, effect of.
- 338.545. Medicaid pharmacy dispensing fee, adjustment made, amount.
- 338.550. Annual health care cost impact study required, submission, contents — exemption from tax, when — expiration date.
- 447.532. Courts — public corporations — public authority — officers — political subdivisions holding intangible personal property for another presumed abandoned, when.
- 470.010. Estates escheat, when.
- 470.020. Disposition of unclaimed moneys — deemed unclaimed property, when — transfer to abandoned fund account — transfer to public schools.
- 470.030. Proceedings when moneys are not paid to state treasurer as required.
- 470.060. When lands transfer to state.
- 470.070. Scire facias to issue.
- 470.080. To be served, when.
- 470.130. Judgment for defendant, when.
- 470.150. Copy of record filed with state treasurer.
- 470.200. Court may order sale.
- 470.210. Proceeds paid into abandoned fund account.
- 470.220. State treasurer to keep record.
- 470.270. Money or effects involved in litigation — disposition — unclaimed property, state may bring action to recover, when, exceptions.
- 542.301. Disposition of unclaimed seized property — forfeiture to the state, when — allegedly obscene matter, how treated — appeal authorized.
 - 1. Schools of the future fund created, use of funds.
- 470.040. Proceedings to recover money from state.
- 470.050. Court to order warrant to issue, when.
- 470.190. Bar against all claims.
- 470.230. Money in treasury escheats to state, when.
- 470.240. Investment of money.
- 470.250. State treasurer shall be custodian — disposition of interest.
- 470.260. Bond account kept — by whom.
- 470.280. Circuit court jurisdiction over escheat proceedings.
- 470.290. Actions by attorney general — disposition of money or property.
- 470.300. Notice of proceedings.
- 470.310. Service of process.
- 470.320. Class action — service notice by publication.
- 470.330. Claims to moneys or effects received by treasurer under escheat judgment.
- 470.340. Order directing payment to state treasurer — procedure.
- 470.350. Unclaimed escheat — disposition.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 143.121, 143.811, 313.300, 447.532, 470.010, 470.020, 470.030, 470.040, 470.050, 470.060, 470.070, 470.080, 470.130, 470.150, 470.190, 470.200, 470.210, 470.220, 470.230, 470.240, 470.250, 470.260, 470.270, 470.280, 470.290, 470.300, 470.310, 470.320, 470.330, 470.340, 470.350 and 542.301, RSMo, are repealed and thirty-five new sections enacted in lieu thereof, to be known as sections 32.068, 32.069, 136.320, 143.121, 143.122, 143.811, 313.300, 313.301, 338.500, 338.501, 338.505, 338.510, 338.515, 338.520, 338.525, 338.530, 338.535, 338.540, 338.545, 338.550, 447.532, 470.010, 470.020, 470.030, 470.060, 470.070, 470.080, 470.130, 470.150, 470.200, 470.210, 470.220, 470.270, 542.301 and 1, to read as follows:

32.068. ANNUAL RATE OF INTEREST TO BE CALCULATED, DIRECTOR OF REVENUE TO APPLY RATE, WHEN. — **1.** The state treasurer shall calculate an annual rate of interest pursuant to this section and provide the calculated rate of interest to the director of revenue as determined by subsection 2 of this section.

2. Each calendar quarter the state treasurer shall calculate the annual rate of interest. The rate of interest shall be equal to the previous twelve-month annualized average rate of return on all funds invested by the state treasurer, rounded to the nearest one-tenth of one percent. The state treasurer shall provide such calculated rate to the director of revenue not later than thirty days prior to the end of each calendar quarter. The director of revenue shall apply the calculated rate of interest to all applicable situations during the next calendar quarter after the release of the calculated rate of interest.

3. Beginning January 1, 2003, the director of revenue shall apply the calculated rate of interest as determined by this section to all applicable situations.

4. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to this section and shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 1 of this act.

32.069. INTEREST ALLOWED AND PAID ON REFUND OR OVERPAYMENT OF INTEREST PAID IN EXCESS OF ANNUAL INTEREST RATE. — **1.** Notwithstanding any other provision of law to the contrary, interest shall be allowed and paid on any refund or overpayment at the rate determined by section 32.068 only if the overpayment is not refunded within one hundred twenty days from the latest of the following dates:

(1) The last day prescribed for filing a tax return or refund claim, without regard to any extension of time granted;

(2) The date the return, payment, or claim is filed; or

(3) The date the taxpayer files for a credit or refund and provides accurate and complete documentation to support such claim.

2. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to this section and shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 1 of this act.

136.320. AMNESTY TO APPLY TO CERTAIN TAXES — CONDITIONS FOR GRANTING — PAYMENTS TO BE DEPOSITED IN SCHOOLS OF THE FUTURE FUND — RULEMAKING AUTHORITY. — **1.** Notwithstanding the provisions of any other law to the contrary, with respect to taxes administered by the department of revenue, an amnesty from the assessment or payment of all penalties, additions to tax, and interest shall apply with respect to taxes due and owing reported and paid in full from August 1, 2002, to October 31, 2002, regardless of whether previously assessed, except for penalties, additions to tax,

and interest paid before August 1, 2002. The amnesty shall apply only to state tax liabilities due on or before December 31, 2001, and shall not extend to any taxpayer who at the time of payment is a party to any criminal investigations or to any civil or criminal litigation that is pending in any court of the United States or this state for nonpayment, delinquency, or fraud in relation to any state tax imposed by the state of Missouri.

2. Upon written application by the taxpayer, on forms prescribed by the director of revenue, and upon compliance with the provisions of this section, the department of revenue shall not seek to collect any penalty, addition to tax, or interest which may be applicable. The department of revenue shall not seek civil or criminal prosecution for any taxpayer for the taxable period for which the amnesty has been granted.

3. Amnesty shall be granted only to those taxpayers who have applied for amnesty within the period stated in subsection 1 of this section, who have filed a tax return for each taxable period for which amnesty is requested, who have paid the entire balance due within sixty days of approval by the department of revenue, and who agree to comply with state tax laws for the next three years from the date of the agreement. No taxpayer shall be entitled to a waiver of any penalty, addition to tax, or interest pursuant to this section unless full payment of the tax due is made in accordance with rules and regulations established by the director of revenue.

4. If a taxpayer elects to participate in the amnesty program established pursuant to this section as evidenced by full payment of the tax due as established by the director of revenue, that election shall constitute an express and absolute relinquishment of all administrative and judicial rights of appeal. No tax payment received pursuant to this section shall be eligible for refund or credit.

5. Nothing in this section shall be interpreted to disallow the department of revenue to adjust a taxpayer's tax return as a result of any state or federal audit.

6. All tax payments received as a result of the amnesty program established pursuant to this section shall be deposited in the schools of the future fund created pursuant to section 1 of this act, other than revenues earmarked by the Missouri Constitution.

7. The department may promulgate such rules or regulations or issue administrative guidelines as are necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

143.121. MISSOURI ADJUSTED GROSS INCOME. — 1. The Missouri adjusted gross income of a resident individual shall be his federal adjusted gross income subject to the modifications in this section.

2. There shall be added to his federal adjusted gross income:

(a) The amount of any federal income tax refund received for a prior year which resulted in a Missouri income tax benefit;

(b) Interest on certain governmental obligations excluded from federal gross income by Section 103 of the Internal Revenue Code. The previous sentence shall not apply to interest on obligations of the state of Missouri or any of its political subdivisions or authorities and shall not apply to the interest described in subdivision (a) of subsection 3 of this section. The amount added under this paragraph shall be reduced by the amounts applicable to such interest that would have been deductible in computing the taxable income of the taxpayer except only for the application of Section 265 of the Internal Revenue Code. The reduction shall only be made if it is at least five hundred dollars;

(c) The amount of any deduction that is included in the computation of federal taxable income under Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002 to the extent the amount deducted relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent the amount deducted exceeds the amount that would have been deductible under Section 168 of the Internal Revenue Code of 1986 as in effect on January 1, 2002; and

(d) The amount of any deduction that is included in the computation of federal taxable income for net operating loss allowed by Section 172 of the Internal Revenue Code of 1986, as amended, except for any deduction for net operating loss the taxpayer claims in the tax year in which the net operating loss occurred or carries forward for a period not to exceed twenty years and carries backward for not more than two years.

3. There shall be subtracted from his federal adjusted gross income the following amounts to the extent included in federal adjusted gross income:

(a) Interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent exempt from Missouri income taxes under the laws of the United States. The amount subtracted under this paragraph shall be reduced by any interest on indebtedness incurred to carry the described obligations or securities and by any expenses incurred in the production of interest or dividend income described in this paragraph. The reduction in the previous sentence shall only apply to the extent that such expenses including amortizable bond premiums are deducted in determining his federal adjusted gross income or included in his Missouri itemized deduction. The reduction shall only be made if the expenses total at least five hundred dollars;

(b) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis to the taxpayer for Missouri income tax purposes than for federal income tax purposes on December 31, 1972, that does not exceed such difference in basis. If a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to one-half of such portion of the gain;

(c) The amount necessary to prevent the taxation under sections 143.011 to 143.996 of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of Missouri for a taxable year prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain;

(d) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income;

(e) The amount of any state income tax refund for a prior year which was included in the federal adjusted gross income;

(f) The portion of capital gain specified in subsection 3 of section 144.747, RSMo, that would otherwise be included in federal adjusted gross income; and

(g) The amount that would have been deducted in the computation of federal taxable income under Section 168 of the Internal Revenue Code as in effect on January 1, 2002, to the extent that amount relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent that amount exceeds the amount actually deducted under Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002.

4. There shall be added to or subtracted from his federal adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

5. There shall be added to or subtracted from his federal adjusted gross income the modifications provided in section 143.411.

**143.122. ESTIMATE OF ADDITIONAL INCOME TAX REVENUES FOR FISCAL YEAR 2003—
TRANSFER OF \$27,000,000 INTO SCHOOLS OF THE FUTURE FUND FROM GENERAL REVENUE.
— In fiscal year 2003, the commissioner of administration shall estimate the amount of**

any additional state revenue received pursuant to section 143.121 and shall transfer an amount equal to twenty-seven million dollars of general revenue to the schools of the future fund created in section 1 of this act.

143.811. INTEREST ON OVERPAYMENT. — 1. Under regulations prescribed by the director of revenue, interest shall be allowed and paid at the rate determined by section 32.065, RSMo, on any overpayment in respect of the tax imposed by sections 143.011 to 143.996; except that, where the overpayment resulted from the filing of an amendment of the tax by the taxpayer after the last day prescribed for the filing of the return, interest shall be allowed and paid at the rate of six percent per annum. With respect to the part of an overpayment attributable to a deposit made pursuant to subsection 2 of section 143.631, interest shall be paid thereon at the rate in section 32.065, RSMo, from the date of the deposit to the date of refund. No interest shall be allowed or paid if the amount thereof is less than one dollar.

2. For purposes of this section:

(1) Any return filed before the last day prescribed for the filing thereof shall be considered as filed on such last day determined without regard to any extension of time granted the taxpayer;

(2) Any tax paid by the taxpayer before the last day prescribed for its payment, any income tax withheld from the taxpayer during any calendar year, and any amount paid by the taxpayer as estimated income tax for a taxable year shall be deemed to have been paid by him on the fifteenth day of the fourth month following the close of his taxable year to which such amount constitutes a credit or payment.

3. For purposes of this section with respect to any withholding tax:

(1) If a return for any period ending with or within a calendar year is filed before April fifteenth of the succeeding calendar year, such return shall be considered filed April fifteenth of such succeeding calendar year; and

(2) If a tax with respect to remuneration paid during any period ending with or within a calendar year is paid before April fifteenth of the succeeding calendar year, such tax shall be considered paid on April fifteenth of such succeeding calendar year.

4. If any overpayment of tax imposed by sections 143.011 to 143.996 is refunded within four months after the last date prescribed (or permitted by extension of time) for filing the return of such tax or within four months after the return was filed, whichever is later, no interest shall be allowed under this section on overpayment.

5. Any overpayment resulting from a carryback, including a net operating loss and a corporate capital loss, shall be deemed not to have been made prior to the close of the taxable year in which the loss arises.

6. Any overpayment resulting from a carryback of a tax credit, including but not limited to the tax credits provided in sections 253.557 and 348.432, RSMo, shall be deemed not to have been made prior to the close of the taxable year in which the tax credit was authorized. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to the provisions of this subsection and shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 1 of this act.

313.300. UNCLAIMED PRIZES — TRANSFER TO LOTTERY PROCEEDS FUND AND SCHOOLS OF THE FUTURE FUND. — 1. Unclaimed prize money shall be retained by the commission for the person entitled thereto for [one year] **one hundred eighty days** after the time at which the prize was awarded. If no claim is made for the prize within [such year] **one hundred eighty days**, the prize money shall be reverted to the state lottery fund.

2. In fiscal year 2003, the lottery commission shall, transfer the amount received pursuant to this section to the lottery proceeds fund. In fiscal year 2003, the commissioner of administration shall transfer an equivalent amount from the lottery proceeds fund to the schools of the future fund created in section 1 of this act.

313.301. \$5,000,000 TRANSFERRED FROM LOTTERY PROCEEDS FUND TO SCHOOLS OF THE FUTURE FUND IN FISCAL YEAR 2003. — In fiscal year 2003, there shall be transferred out of the lottery proceeds fund and deposited to the credit of the schools of the future fund created in section 1 of this act, five million dollars.

338.500. GROSS RETAIL PRESCRIPTIONS, TAX IMPOSED, DEFINITIONS. — 1. In addition to all other fees and taxes required or paid, a tax is hereby imposed upon licensed retail pharmacies for the privilege of providing outpatient prescription drugs in this state. The tax is imposed upon the Missouri gross retail prescription receipts earned from filling outpatient retail prescriptions.

2. For purposes of sections 338.500 to 338.550:

(1) "Gross retail prescription receipts" shall mean all amounts received by a licensed pharmacy for its own account from the sale of outpatient prescription drugs in the state of Missouri but shall not include those sales shipped out of the state of Missouri and shall include the receipts from cost sharing, dispensing fees, and retail prescription drug sales;

(2) "Licensed pharmacy" shall have the same meaning as such term is defined in section 338.210;

(3) "Retail" means a sale for use or consumption and not for resale.

338.501. USE OF TAX PROCEEDS. — In fiscal year 2003, the amount generated by the tax imposed pursuant to section 338.500, less any amount paid pursuant to section 338.545, shall be used in the formula necessary to qualify for the calculations included in house bill 1102, section 2.325 through section 2.333 as passed by the ninety-first general assembly, second regular session.

338.505. FORMULA FOR TAX LIABILITY, RULEMAKING AUTHORITY, APPEALS PROCEDURE. — 1. Each licensed retail pharmacy's tax shall be based on a formula set forth in rules promulgated by the department of social services. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

2. The director of the department of social services or the director's designee, may prescribe the form and contents of any forms or other documents required by sections 338.500 to 338.550.

3. Notwithstanding any other provision of law to the contrary, appeals regarding the promulgation of rules pursuant to this section shall be made to the circuit court of Cole County. The circuit court of Cole County shall hear the matter as the court of original jurisdiction.

338.510. RECORDS TO BE MAINTAINED, FORM — REPORT OF GROSS RECEIPTS, INFORMATION — CONFIDENTIALITY OF INFORMATION. — 1. Each licensed retail pharmacy shall keep such records as may be necessary to determine gross retail prescription receipts.

2. The director of revenue may prescribe the form and contents of any forms or other documents required by this section.

3. Each licensed retail pharmacy shall report the gross retail prescription receipts to the department of revenue.

4. The department of revenue shall provide the department of social services with the information that is necessary to implement the provisions of sections 338.500 to 338.550.

5. The information obtained by the department of social services from the department of revenue shall be confidential and any employee of the department of social services who unlawfully discloses any such information for any other purpose, except as authorized by law, shall be subject to the penalties specified in section 32.057, RSMo.

338.515. EFFECTIVE DATE OF TAX. — The tax imposed by sections 338.500 to 338.550 shall become effective July 1, 2002, or the effective date of sections 338.500 to 338.550, whichever is later.

338.520. CALCULATION OF TAX LIABILITY — NOTIFICATION TO PHARMACIES. — 1. The determination of the amount of tax due shall be the monthly gross retail prescription receipts reported to the department of revenue multiplied by the tax rate established by rule by the department of social services. Such tax rate may be a graduated rate based on gross retail prescription receipts and shall not exceed a rate of six percent per annum of gross retail prescription receipts; provided, that such rate shall not exceed one-tenth of one percent per annum in the case of licensed pharmacies of which eighty percent or more of such gross receipts are attributable to prescription drugs that are delivered directly to the patient via common carrier, by mail, or a courier service.

2. The department of social services shall notify each licensed retail pharmacy of the amount of tax due. Such amount may be paid in increments over the balance of the assessment period.

338.525. CREDIT FOR GROSS RECEIPTS INCLUDED IN ASSESSMENT FOR FEDERAL REIMBURSEMENT ALLOWANCE OR NURSING FACILITY REIMBURSEMENT ALLOWANCE. — If a pharmacy's gross retail prescription receipts are included in the revenue assessed by the federal reimbursement allowance or the nursing facility reimbursement allowance, the proportion of those taxes paid or the entire tax due shall be allowed as a credit for the pharmacy tax due pursuant to section 338.500.

338.530. OFFSET AGAINST MEDICAID PAYMENTS DUE BY PHARMACY PERMITTED, WHEN. — The director of the department of social services may offset the tax owed by a pharmacy against any Missouri Medicaid payment due such pharmacy, if the pharmacy requests such an offset. The amounts to be offset shall result, so far as practicable, in withholding from the pharmacy an amount substantially equal to the assessment due from the pharmacy. The office of administration and the state treasurer may make any fund transfers necessary to execute the offset.

338.535. REMITTANCE TO DEPARTMENT — PHARMACY REIMBURSEMENT ALLOWANCE FUND CREATED. — 1. The pharmacy tax owed or, if an offset has been made, the balance after such offset, if any, shall be remitted by the pharmacy to the department of social services. The remittance shall be made payable to the director of the department of revenue and shall be deposited in the state treasury to the credit of the "Pharmacy Reimbursement Allowance Fund" which is hereby created to provide payments for services related to the Medicaid pharmacy program. All investment earnings of the fund shall be credited to the fund.

2. An offset authorized by section 338.530 or a payment to the pharmacy reimbursement allowance fund shall be accepted as payment of the obligation set forth in section 338.500.

3. The state treasurer shall maintain records showing the amount of money in the pharmacy reimbursement allowance fund at any time and the amount of investment earnings on such amount.

4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the pharmacy reimbursement allowance fund at the end of the biennium shall not revert to the credit of the general revenue fund.

338.540. NOTICE REQUIREMENTS—UNPAID OR DELINQUENT TAXES, PROCEDURE FOR COLLECTION — FAILURE TO PAY TAXES, EFFECT OF. — 1. The department of social services shall notify each pharmacy with a tax due of more than ninety days of the amount of such balance. If any pharmacy fails to pay its pharmacy tax within thirty days of such notice, the pharmacy tax shall be delinquent.

2. If any tax imposed pursuant to sections 338.500 to 338.550 is unpaid and delinquent, the department of social services may proceed to enforce the state's lien against the property of the pharmacy and compel the payment of such assessment in the circuit court having jurisdiction in the county where the pharmacy is located. In addition, the department of social services may cancel or refuse to issue, extend, or reinstate a Medicaid provider agreement to any pharmacy that fails to pay the tax imposed by section 338.500.

3. Failure to pay the tax imposed by section 338.500, RSMo, shall be grounds for denial, suspension, or revocation of a license granted pursuant to this chapter. The department of social services may request the board of pharmacy to deny, suspend, or revoke the license of any pharmacy that fails to pay such tax.

338.545. MEDICAID PHARMACY DISPENSING FEE, ADJUSTMENT MADE, AMOUNT. — 1. The Medicaid pharmacy dispensing fee shall be adjusted to include a supplemental payment amount equal to the tax assessment due plus ten percent.

2. The amount of the supplemental payment shall be adjusted once annually beginning July first or once annually after the initial start date of the pharmacy tax, whichever is later.

3. If the pharmacy tax required by sections 338.500 to 338.550 is declared invalid, the pharmacy dispensing fee for the Medicaid program shall be the same as the amount required on July 1, 2001.

338.550. ANNUAL HEALTH CARE COST IMPACT STUDY REQUIRED, SUBMISSION, CONTENTS—EXEMPTION FROM TAX, WHEN—EXPIRATION DATE. — 1. The pharmacy tax required by sections 338.500 to 338.550 shall be the subject of an annual health care cost impact study commissioned by the department of insurance to be completed prior to or on January 1, 2003 and each year the tax is in effect. The report shall be submitted to the speaker of the house, president pro-tem of the senate, and the governor. This study shall employ an independent economist and an independent actuary paid for by the state's department of social services. The department shall seek the advice and input from the department of social services, business health care purchasers, as well as health care insurers in the selection of the economist and actuary. This study shall assess the degree of health care costs shifted to individual Missourians and individual and group health plans resulting from this tax.

2. The provisions of sections 338.500 to 338.550 shall not apply to pharmacies domiciled or headquartered outside this state which are engaged in prescription drug sales that are delivered directly to patients within this state via common carrier, mail or a carrier service.

3. Sections 338.500 to 338.550 shall expire on June 30, 2003.

447.532. COURTS — PUBLIC CORPORATIONS — PUBLIC AUTHORITY — OFFICERS — POLITICAL SUBDIVISIONS HOLDING INTANGIBLE PERSONAL PROPERTY FOR ANOTHER PRESUMED ABANDONED, WHEN. — 1. **Notwithstanding the provisions of section 447.536,** all intangible personal property held **as of the effective date of this act** for the owner by any court, **including any receivership or custodianship under court supervision, or** public corporation, public authority, or public officer of this state, or a political subdivision thereof, that has remained unclaimed by the owner for more than [seven] **three** years [or five years as provided in section 447.536 is presumed] **is deemed abandoned and shall be turned over immediately to the treasurer pursuant to section 447.543.**

2. **Notwithstanding the provisions of section 447.536,** all intangible personal property held for the owner whose last known address is located in Missouri, by a public officer, official, agency, department, or court, of the United States or any state or local government or governmental subdivision, agency, or entity thereof that has remained unclaimed by the owner for more than [seven] **three** years [or five years as provided in section 447.536 is presumed] **is deemed abandoned and shall be turned over to the treasurer pursuant to section 447.543.** If no address is listed or if the address is outside this state, all intangible personal property held for the owner by such entities listed in this section and located in this state, or held for a holder that is located in this state, that has remained unclaimed by the owner for more than [seven] **three** years [or five years as provided in section 447.536 is presumed] **is deemed abandoned and shall be turned over immediately to the treasurer pursuant to section 447.543,** except as provided in section 447.547.

3. All intangible personal property referred to in this section is subject to the provisions of sections 447.500 to 447.595.

470.010. ESTATES ESCHEAT, WHEN. — If any person die intestate, seized of any real or personal property, leaving no heirs or representatives **currently** capable of inheriting the same; or, if upon final settlement of an executor or administrator, there is a balance in his **or her** hands belonging to some legatee or distributee who is a nonresident or who is not in a situation to receive the same and give a discharge thereof or who does not appear by himself **or herself** or agent to claim and receive the same; or, if upon final settlement of an assignee for the benefit of creditors, there shall remain in his **or her** possession any unclaimed dividends; or, if upon final report of any sheriff to the court, it is shown that the interests in the proceeds of the sale of land in partition of certain parties, who are absent from the state, who are nonresidents, who are not known or named in the proceedings, or who, from any cause, are not in a situation to receive the same, are in his **or her** hands unpaid and unclaimed; or, if, upon final settlement of the receiver of any company or corporation which has been doing business in this state, there is money in his **or her** hands unpaid and unclaimed, in each and every such instance such real and personal estate shall [escheat and vest in] **transfer to** the state, subject to and in accordance with the provisions of sections 470.010 to [470.260] **470.220 and sections 447.500 to 447.595, RSMo.**

470.020. DISPOSITION OF UNCLAIMED MONEYS — DEEMED UNCLAIMED PROPERTY, WHEN — TRANSFER TO ABANDONED FUND ACCOUNT — TRANSFER TO PUBLIC SCHOOLS. —

1. Within one year after the final settlement of any executor or administrator, assignee, sheriff or receiver, all moneys in his **or her** hands unpaid or unclaimed, as provided in section 470.010, shall, upon the order of the court in which the settlement is made, be paid to the state [director of revenue who shall issue his receipt therefor] **treasurer.**

2. [All moneys so received shall be deposited in the state treasury and credited to a fund, to be known and designated as "Escheats"] **Beginning January 1, 2003, all real and personal estate that transfers or has transferred to the state pursuant to section 470.010 shall be deemed unclaimed property under the uniform disposition of unclaimed property act as set forth in chapter 447, RSMo, and shall be treated in the same manner as all other unclaimed property under such act.**

3. All moneys in the escheats fund on or after December 31, 2002, shall be transferred to the abandoned fund account created in section 447.543, RSMo, and the escheats fund shall be abolished. Any accounting information maintained by the commissioner of administration for moneys paid into the state treasury and all moneys from the sale of lands vested in the state shall be transferred to the unclaimed property division of the office of state treasurer.

4. The state treasurer shall remain custodian of any bonds purchased by the state board of fund commissioners prior to January 1, 2003, and shall deposit all interest received from such bonds into the abandoned fund account. The state treasurer, in consultation with the state board of fund commissioners, shall determine the use and disposition of proceeds from all such bonds purchased by the state board.

5. Beginning in fiscal year 2003 and for each subsequent fiscal year, the state treasurer shall transfer from the abandoned fund account to the public schools fund an amount equal to five percent of the annual amount transferred to the general revenue fund from the abandoned fund account net any transfers from the general revenue to the abandoned fund account.

470.030. PROCEEDINGS WHEN MONEYS ARE NOT PAID TO STATE TREASURER AS REQUIRED. — 1. The court having the settlement of the accounts of such executor or administrator, assignee, sheriff or receiver [upon the production of the receipt of the state director of revenue,] shall give credit for the amount thereof; but if the moneys are not paid to the state [director of revenue] **treasurer**, the prosecuting attorney of the county in which the executor or administrator, assignee, sheriff or receiver resides, shall, upon giving ten days' previous notice of his **or her** intention so to do, move the court to enter judgment against the executor or administrator, assignee, sheriff or receiver, and his **or her** sureties, or either of them, for the moneys in his **or her** possession, together with eight percent per annum thereon from the time the same should have been turned over to the state [director of revenue] **treasurer** until the rendition of the judgment.

2. The court shall determine the case in a summary manner, and if it finds the facts as stated in the motion to be true, and no valid and reasonable excuse for the delay is offered, shall enter judgment accordingly and adjudge the executor or administrator, assignee, sheriff or receiver to pay all costs of the proceedings.

470.060. WHEN LANDS TRANSFER TO STATE. — When the prosecuting attorney shall be informed, or have reason to believe, that any real estate within his **or her** county [has escheated] **should transfer** to the state, and such estate shall not have been sold according to law, within five years after the death of the person last seized, for the payment of the debts of the deceased, [he] **the prosecuting attorney** shall file an information in behalf of the state in the circuit court of the county in which such estate is situate, setting forth a description of the estate, the name of the person last lawfully seized, the names of the terre-tenants and persons claiming the same, if known, and the facts and circumstances in consequence of which such estate is claimed to have [escheated] **transferred** and alleging that, by reason thereof, the state of Missouri hath right to such estate.

470.070. SCIRE FACIAS TO ISSUE. — Such court shall award and issue a scire facias against such person, bodies politic or corporate, as shall be alleged in such information to hold, possess or claim such estate, requiring them to appear and show cause why such estate should not be [vested in] **sold and transferred to** the state, at the next term of such court.

470.080. TO BE SERVED, WHEN. — Such scire facias shall be served fifteen days before the return day thereof, and the court shall make an order, setting forth briefly the contents of such information, and requiring all persons interested in or claiming title to said estate to appear and

show cause, at the next term of said court, why the same shall not be [vested in] **sold and the proceeds transferred to** the state; which order shall be published for six weeks in some newspaper printed and published in the county in which such proceedings are had.

470.130. JUDGMENT FOR DEFENDANT, WHEN. — If it appear that the state has no title in such estate, the defendant shall recover his **or her** costs, to be taxed and certified by the clerk, provided that the court find, from the facts, that the title to such estate is in [him. The commissioner of administration shall.] **the defendant**. When such certificate of the clerk is filed in his **or her** office, [certify the claim to the state auditor, who shall issue a warrant therefor on the state treasurer, which shall be paid] **the state treasurer shall pay the certificate** as other demands on the treasury.

470.150. COPY OF RECORD FILED WITH STATE TREASURER. — Upon the return of such writ of possession, the prosecuting attorney shall cause the record and process to be exemplified under the seal of the court and deposit the same in the office of the [director of revenue] **state treasurer**; and he **or she** shall cause the transcript of the judgment to be recorded in the office of the recorder of the county in which such estate is situate; and such judgment shall preclude all parties and privies thereto, their heirs and assigns, so long as such judgment shall remain in force.

470.200. COURT MAY ORDER SALE. — Whenever **title to** any real estate [shall have escheated and the title thereto] **has** vested in the state, the circuit court of the county in which such estate is situate shall, upon the application of the prosecuting attorney of said county, order and direct said real estate to be sold; which sale shall be made by the sheriff of said county and shall be advertised and conducted in the same manner as shall by law be provided for the sale of real estate under execution.

470.210. PROCEEDS PAID INTO ABANDONED FUND ACCOUNT. — All moneys realized from the sale of any real estate, after paying all costs of such proceedings, and such compensation to the prosecuting attorney as shall be allowed by the court in which such order of sale is made, shall be paid by the sheriff into the state treasury within ninety days after the receipt thereof; and if said sheriff fail to pay said money into the state treasury within ninety days after the receipt thereof, [he] **the sheriff** shall be proceeded against in the same manner as is provided in section 470.030. Moneys so paid into the state treasury shall be **deemed unclaimed property under the uniform disposition of unclaimed property act as set forth in chapter 447, RSMo, and shall be** credited into the [fund to be known and designated as "Escheats"] **abandoned fund account**, and shall be [withdrawn or disposed of] **treated in the same manner** as other moneys paid into the state treasury under sections 470.010 to [470.260] **470.220**.

470.220. STATE TREASURER TO KEEP RECORD. — The [commissioner of administration] **state treasurer** shall keep just and accurate account of all money paid into the state treasury [and], all land vested in the state [as aforesaid] **pursuant to sections 470.010 to 470.220, and all proceeds received from the sale of such land**.

470.270. MONEY OR EFFECTS INVOLVED IN LITIGATION — DISPOSITION — UNCLAIMED PROPERTY, STATE MAY BRING ACTION TO RECOVER, WHEN, EXCEPTIONS. — **1. Notwithstanding any other provision of this chapter**, after the owner, [his] **the owner's** assignee, personal representative, grantee, heirs, devisees or other successors, entitled to any moneys, refund of rates or premiums or effects by reason of any litigation concerning rates, refunds, refund of premiums, fares or charges collected by any person or corporation in the state of Missouri for any service rendered or to be rendered in said state, or for any contract of

insurance on property in this state, or under any contract of insurance performed or to be performed in said state, which moneys, refund of rates or premiums or effects have been paid into or deposited in connection with any cause in any court of the state of Missouri or in connection with any cause in any United States court, or so paid into the custody of any depository, clerk, custodian, or other officer of such court, whether the same be afterwards transferred and deposited in the United States treasury or not, shall be and remain unknown, or the whereabouts of such person or persons shall be and has been unknown, for the period heretofore, or hereafter, of [five] **three** successive years, or such moneys, refund of rates or premiums or effects remain unclaimed for the period heretofore, or hereafter, of [five] **three** successive years, from the time such moneys or property are ordered repaid or distributed by such courts, such moneys or property shall be [escheatable to the state of Missouri, and may be escheated] **deemed abandoned and transferred** to the state of Missouri [in the manner herein provided], with all interest and earnings actually accrued thereon to the date of [the judgment and decree for the escheat] **transfer** of the same. [The provisions of this section notwithstanding, this state may elect to take custody of such unclaimed property by instituting a proceeding pursuant to section 447.575, RSMo.] **All moneys or property transferring to the state pursuant to this section shall be deemed unclaimed property under the uniform disposition of unclaimed property act as set forth in chapter 447, RSMo, and shall be treated in the same manner as all other unclaimed property under such act.**

2. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to subsection 3 of section 470.020 and shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 1 of this act.

542.301. DISPOSITION OF UNCLAIMED SEIZED PROPERTY — FORFEITURE TO THE STATE, WHEN — ALLEGEDLY OBSCENE MATTER, HOW TREATED — APPEAL AUTHORIZED. — 1. [Unless the statute authorizing seizure provides otherwise,] Property which comes into the custody of an officer or of a court as the result of any seizure and which has not been **forfeited pursuant to any other provisions of law or** returned to the claimant shall be disposed of as follows:

(1) Stolen property, or property acquired in any other manner declared an offense by chapters 569 and 570, RSMo, but not including any of the property referred to in subsection 2 of this section, shall be delivered by order of court upon claim having been made and established, to the person who is entitled to possession;

[(2)] (a) The claim shall be made by written motion filed with the court with which a motion to suppress has been, or may be, filed. The claim shall be barred if not made within one year from the date of the seizure;

[(3)] (b) Upon the filing of such motion, the judge shall order notice to be given to all persons interested in the property, including other claimants and the person from whose possession the property was seized, of the time, place and nature of the hearing to be held on the motion. The notice shall be given in a manner reasonably calculated to reach the attention of all interested persons. Notice may be given to unknown persons and to persons whose address is unknown by publication in a newspaper of general circulation in the county. No property shall be delivered to any claimant unless all interested persons have been given a reasonable opportunity to appear and to be heard;

[(4)] (c) After a hearing, the judge shall order the property delivered to the person or persons entitled to possession, if any. The judge may direct that delivery of property required as evidence in a criminal proceeding shall be postponed until the need no longer exists;

[(5)] (d) A law enforcement officer having custody of seized property may, at any time that seized property has ceased to be useful as evidence, request that the prosecuting attorney of the county in which property was seized file a motion with the court of such county for the disposition of the seized property. If the prosecuting attorney does not file such motion within

sixty days of the request by the law enforcement officer having custody of the seized property, then such officer may request that the attorney general file a written motion with the circuit court of the county or judicial district in which the seizure occurred. Upon filing of the motion, the court shall issue an order directing the disposition of the property. **Such disposition may**, if the property is not claimed within one year from the date of the seizure or if no one establishes a right to it, and the seized property has ceased to be useful as evidence, [the judge authorized to order a delivery shall upon the judge's own motion, order] **include** a public sale of the property. **Pursuant to a motion properly filed and granted under this section, the proceeds of [the] any sale, less necessary expenses of preservation and sale, shall be paid into the county treasury for the use of the county. If the property is not salable, the judge may order its destruction. Notwithstanding any other provision of law, if no claim is filed within one year of the seizure and no motion pursuant to this section is filed within six months thereafter, and the seized property has ceased to be useful as evidence, the property shall be deemed abandoned, converted to cash and shall be turned over immediately to the treasurer pursuant to section 447.543, RSMo;**

[6.] (e) If the property is a living animal or is perishable, the judge may, at any time, order it sold at public sale. The proceeds shall be held in lieu of the property. A written description of the property sold shall be filed with the judge making the order of sale so that the claimant may identify the property. If the proceeds are not claimed within the time limited for the claim of the property, the proceeds shall be paid into the county treasury. If the property is not salable, the judge may order its destruction.

[2.] (2) Weapons, tools, devices, and substances other than motor vehicles, aircraft or watercraft, used by the owner or with the owner's consent as a means for committing felonies other than the offense of possessing burglary tools in violation of section 569.180, RSMo, and property, the possession of which is an offense under the laws of this state or which has been used by the owner, or used with the owner's acquiescence or consent, as a raw material or as an instrument to manufacture or produce anything the possession of which is an offense under the laws of this state, or which any statute authorizes or directs to be seized, other than lawfully possessed weapons seized by an officer incident to an arrest, shall be forfeited to the state of Missouri.

[3.] 2. The officer who has custody of the property shall inform the prosecuting attorney of the fact of seizure and of the nature of the property. The prosecuting attorney shall thereupon file a written motion with the court with which the motion to suppress has been, or may be, filed praying for an order directing the forfeiture of the property. If the prosecuting attorney of a county in which property is seized fails to file a motion with the court for the disposition of the seized property within sixty days of the request by a law enforcement officer, the officer having custody of the seized property may request the attorney general to file a written motion with the circuit court of the county or judicial district in which the seizure occurred. Upon filing of the motion, the court shall issue an order directing the disposition of the property. The signed motion shall be returned to the requesting agency. A motion may also be filed by any person claiming the right to possession of the property praying that the court declare the property not subject to forfeiture and order it delivered to the moving party.

[4.] 3. Upon the filing of a motion either by the prosecuting attorney or by a claimant, the judge shall order notice to be given to all persons interested in the property, including the person out of whose possession the property was seized and any lienors, of the time, place and nature of the hearing to be held on the motion. The notice shall be given in a manner reasonably calculated to reach the attention of all interested persons. Notice may be given to unknown persons and to persons of unknown address by publication in a newspaper of general circulation in the county. Every interested person shall be given a reasonable opportunity to appear and to be heard as to the nature of the person's claim to the property and upon the issue of whether or not it is subject to forfeiture.

[5.] 4. If the evidence is clear and convincing that the property in issue is in fact of a kind subject to forfeiture under this subsection, the judge shall declare it forfeited and order its destruction or sale. The judge shall direct that the destruction or sale of property needed as evidence in a criminal proceeding shall be postponed until this need no longer exists.

[6.] 5. If the forfeited property can be put to a lawful use, it may be ordered sold after any alterations which are necessary to adapt it to a lawful use have been made. If there is a holder of a bona fide lien against property which has been used as a means for committing an offense or which has been used as a raw material or as an instrument to manufacture or produce anything which is an offense to possess, who establishes that the use was without the lienholder's acquiescence or consent, the proceeds, less necessary expenses of preservation and sale, shall be paid to the lienholder to the amount of the lienholder's lien. The remaining amount shall be paid into the county treasury.

[7.] 6. If the property is perishable the judge may order it sold at a public sale or destroyed, as may be appropriate, prior to a hearing. The proceeds of a sale, less necessary expenses of preservation and sale, shall be held in lieu of the property.

[8.] 7. When a warrant has been issued to search for and seize allegedly obscene matter for forfeiture to the state, after an adversary hearing, the judge, upon return of the warrant with the matter seized, shall give notice of the fact to the prosecuting attorney of the county in which the matter was seized and the dealer, exhibitor or displayer and shall conduct further adversary proceedings to determine whether the matter is subject to forfeiture. If the evidence is clear and convincing that the matter is obscene as defined by law and it was being held or displayed for sale, exhibition, distribution or circulation to the public, the judge shall declare it to be obscene and forfeited to the state and order its destruction or other disposition; except that, no forfeiture shall be declared without the dealer, distributor or displayer being given a reasonable opportunity to appear in opposition and without the judge having thoroughly examined each item. If the material to be seized is the same as or another copy of matter that has already been determined to be obscene in a criminal proceeding against the dealer, exhibitor, displayer or such person's agent, the determination of obscenity in the criminal proceeding shall constitute clear and convincing evidence that the matter to be forfeited pursuant to this subsection is obscene. Except when the dealer, exhibitor or displayer consents to a longer period, or by such person's actions or pleadings willfully prevents the prompt resolution of the hearing, judgment shall be rendered within ten days of the return of the warrant. If the matter is not found to be obscene or is not found to have been held or displayed for sale, exhibition or distribution to the public, or a judgment is not entered within the time provided for, the matter shall be restored forthwith to the dealer, exhibitor or displayer.

[9.] 8. If an appeal is taken by the dealer, exhibitor or displayer from an adverse judgment, the case should be assigned for hearing at the earliest practicable date and expedited in every way. Destruction or disposition of a matter declared forfeited shall be postponed until the judgment has become final by exhaustion of appeal, or by expiration of the time for appeal, and until the matter is no longer needed as evidence in a criminal proceeding.

[10.] 9. A determination of obscenity, pursuant to this subsection, shall not be admissible in any criminal proceeding against any person or corporation for sale or possession of obscene matter; except that dealer, distributor or displayer from which the obscene matter was seized for forfeiture to the state.

[11.] 10. When allegedly obscene matter or pornographic material for minors has been seized under a search warrant issued pursuant to subsection 2 of section 542.281 and the matter is no longer needed as evidence in a criminal proceeding the prosecuting attorney of the county in which the matter was seized may file a written motion with the circuit court of the county or judicial district in which the seizure occurred praying for an order directing the forfeiture of the matter. Upon filing of the motion, the court shall set a date for a hearing. Written notice of date, time, place and nature of the hearing shall be personally served upon the owner, dealer, exhibitor,

displayer or such person's agent. Such notice shall be served no less than five days before the hearing.

[12.] **11.** If the evidence is clear and convincing that the matter is obscene as defined by law, and that the obscene material was being held or displayed for sale, exhibition, distribution or circulation to the public or that the matter is pornographic for minors and that the pornographic material was being held or displayed for sale, exhibition, distribution or circulation to minors, the judge shall declare it to be obscene or pornographic for minors and forfeited to the state and order its destruction or other disposition. A determination that the matter is obscene in a criminal proceeding as well as a determination that such obscene material was held or displayed for sale, exhibition, distribution or circulation to the public or a determination that the matter is pornographic for minors in a criminal proceeding as well as a determination that such pornographic material was held or displayed for sale, exhibition, distribution or circulation to minors shall be clear and convincing evidence that such material should be forfeited to the state; except that, no forfeiture shall be declared without the dealer, distributor or displayer being given a reasonable opportunity to appear in opposition and without a judge having thoroughly examined each item. A dealer, distributor or displayer shall have had reasonable opportunity to appear in opposition if the matter the prosecutor seeks to destroy is the same matter that formed the basis of a criminal proceeding against the dealer, distributor or displayer where the dealer, distributor or displayer has been charged and found guilty of holding or displaying for sale, exhibiting, distributing or circulating obscene material to the public or pornographic material for minors to minors. If the matter is not found to be obscene, or if obscene material is not found to have been held or displayed for sale, exhibition, distribution or circulation to the public, or if the matter is not found to be pornographic for minors or if pornographic material is not found to have been held or displayed for sale, exhibition, distribution or circulation to minors, the matter shall be restored forthwith to the dealer, exhibitor or displayer.

[13.] **12.** If an appeal is taken by the dealer, exhibitor or displayer from an adverse judgment, the case shall be assigned for hearing at the earliest practicable date and expedited in every way. Destruction or disposition of matter declared forfeited shall be postponed until the judgment has become final by exhaustion of appeal, or by expiration of the time for appeal, and until the matter is no longer needed as evidence in a criminal proceeding.

[14.] **13.** A determination of obscenity shall not be admissible in any criminal proceeding against any person or corporation for sale or possession of obscene matter.

[15.] **14.** An appeal by any party shall be allowed from the judgment of the court as in other civil actions.

15. All other property still in the custody of an officer or of a court as the result of any seizure and which has not been forfeited pursuant to this section or any other provision of law after three years following the seizure and which has ceased to be useful as evidence shall be deemed abandoned, converted to cash and shall be turned over immediately to the treasurer pursuant to section 447.543, RSMo.

16. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to this section and section 447.532, RSMo, shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 1 of this act.

SECTION 1. SCHOOLS OF THE FUTURE FUND CREATED, USE OF FUNDS. — The "Schools of the Future Fund" is hereby created in the state treasury. Moneys deposited in this fund shall be considered state funds pursuant to article IV, section 15 of the Missouri Constitution. All interest received on the schools of the future fund shall be credited to the schools of the future fund. Appropriation of the moneys deposited into the schools of the future fund shall be used solely for the purpose of fully funding state aid to public schools pursuant to section 163.031, RSMo.

[470.040. PROCEEDINGS TO RECOVER MONEY FROM STATE. — Within twenty-one years after any money has been paid to the state director of revenue by an executor or administrator, assignee, sheriff or receiver, any person who appears and claims the same may file his petition in the court in which the final settlement of the executor or administrator, assignee, sheriff or receiver was had, stating the nature of his claim and praying that the money be paid to him, a copy of which petition shall be served upon the prosecuting attorney, who shall file an answer to the same.]

[470.050. COURT TO ORDER WARRANT TO ISSUE, WHEN. — The court shall examine the claim, and the allegations and proofs, and if it finds that the person is entitled to any money so paid to the state it shall order the commissioner of administration to issue his warrant on the state treasurer for the amount of the claim, but without interest or costs; a copy of which order under seal of the court is a sufficient voucher for issuing the warrant.]

[470.190. BAR AGAINST ALL CLAIMS. — After five years all persons, except those who are suffering under a legal disability, shall be forever debarred and precluded from setting up title or claim to any estate which has vested in the state under the provisions of sections 470.010 to 470.260.]

[470.230. MONEY IN TREASURY ESCHEATS TO STATE, WHEN. — All moneys paid into the state treasury under the provisions of sections 470.010 to 470.260, after remaining therein unclaimed for twenty-one years, shall escheat and vest absolutely in the state and be, on the order of the board of fund commissioners, transferred to the public school fund.]

[470.240. INVESTMENT OF MONEY. — The state board of fund commissioners shall invest all moneys paid into the state treasury under the provisions of sections 470.010 to 470.260 that have accumulated, or may hereafter accumulate, in the state treasury in registered United States government and state of Missouri bonds, at not less than par value, and shall at all times keep said fund so invested, provided that said board shall keep in the state treasury in cash the amount appropriated by the general assembly each biennium to pay claims duly approved under the provisions of sections 470.040 and 470.050.]

[470.250. STATE TREASURER SHALL BE CUSTODIAN — DISPOSITION OF INTEREST. — The state treasurer shall be the custodian of the bonds purchased under section 470.240, and shall deposit all interest received from the bonds into the escheat fund, which interest shall be subject to investment and may be transferred to the public school fund upon the order of the board of fund commissioners.]

[470.260. BOND ACCOUNT KEPT — BY WHOM. — The state board of fund commissioners shall keep an account of all bonds purchased by the fund commissioners and turned over to the state treasurer, and the board of fund commissioners shall cause to be certified to the state auditor a statement of all bonds purchased under the provisions of sections 470.240 to 470.260.]

[470.280. CIRCUIT COURT JURISDICTION OVER ESCHEAT PROCEEDINGS. — Whenever an escheat has occurred, or shall occur, of any such moneys, or effects so paid into or deposited in the custody of, or under the control of, any court of the state of Missouri, or any United States court, or in the custody of any depository, clerk, custodian, or other officer of such court, the circuit court of the county in which such court of the state of Missouri or United States court sits, or the circuit court of Cole County, shall have jurisdiction to ascertain if an escheat has occurred, and to enter a judgment or decree for escheat in favor of the state of Missouri.]

[470.290. ACTIONS BY ATTORNEY GENERAL — DISPOSITION OF MONEY OR PROPERTY.

— Such escheat action or proceeding shall, at the direction of the attorney general of the state of Missouri, be instituted and determined by an action at law or a proceeding in equity in the circuit court aforesaid, and such action at law or proceeding in equity shall be brought by the attorney general of the state of Missouri in the name and at the relation of the state of Missouri. The clerk, custodian, or other officer of the court having custody of such moneys or property shall be named a defendant in such action. After a decree for escheat in favor of the state of Missouri, the said attorney general shall take such action in the court wherein any such moneys or property are held as may be required to cause the same to be delivered to the state treasurer, and the same shall be by the treasurer preserved and kept in a separate fund to be known and designated as "Escheats".]

[470.300. NOTICE OF PROCEEDINGS. —

At any time prior to the institution of an action or proceeding by the attorney general on behalf of the state of Missouri as herein provided, said attorney general shall serve or cause to be served on the officer, clerk or custodian of such moneys or fund a notice, in writing, that such fund, designating it, is seized as an escheat fund for the state of Missouri, which notice shall contain a statement that a certain action or proceeding is being instituted and commenced for the escheat of the same and if said fund has been transferred to any other custodian or to the treasury of the United States, then a like notice shall be served on such other custodian and if the fund be transferred to the treasury of the United States, then a like notice shall be personally served on the attorney general of the United States.]

[470.310. SERVICE OF PROCESS. —

Upon the institution and commencement of such action or proceeding by said attorney general at the relation of and for and on behalf of the state of Missouri for the escheat of such funds, proper service of process and summons shall be had on all parties defendant as in other actions and if personal service cannot be had as by law provided in other cases, the defendants shall be served by publication as in other cases.]

[470.320. CLASS ACTION — SERVICE NOTICE BY PUBLICATION. — 1. If persons

constituting the owners, their assignees, personal representatives, grantees, heirs, devisees or other successors of such moneys or funds, to be made parties defendant in such action or proceeding for escheat, are so numerous as to render it impossible or impracticable to bring them all before the court, and to serve them all with process as herein provided for, such of them, if living, or if any of them be not living, their unknown assignees, personal representatives, grantees, heirs, devisees, or other successors, as will fairly insure adequate representation of all, may be sued and served with process as a class. Whenever such action or proceeding is instituted against defendants as representatives of a class, the petition or bill in equity shall allege such facts as shall show that the defendants specifically named, if living, and if any of them be not living, then his unknown assignee, personal representative, grantee, heirs, devisees, or other successors, and served with process as herein provided have been fairly chosen and adequately and fairly represent the whole class. The state shall be required to prove such allegations and it shall not be sufficient to prove such facts by the admission or admissions of the defendants who have entered their appearance.

2. If the proof shows that every person to be bound by the judgment or decree is fairly and adequately represented, a judgment or decree of escheat for the entire funds may be entered, notwithstanding the fact that the defendant or defendants make default, but in such case the state shall be required to prove its case and, if the court finds that a reasonable necessity therefor exists, it may appoint an attorney to represent the defendants and allow him a reasonable attorney's fee to be taxed as costs in the case. The costs of such action shall be paid from funds appropriated by an act of the legislature of the state of Missouri.

3. Service by publication shall be allowed in such escheat class action or proceeding and if the defendant or defendants so served do not appear, judgment of escheat may be rendered affecting said moneys and funds and declaring the same to escheat to the state of Missouri.

4. The attorney general desiring service by publication for such class action or proceeding shall file an application with the circuit judge or clerk of the said circuit court verified by his oath for an order of publication. The application shall show why service cannot be had as in other cases, such as personal service, or by publication as provided in other cases, and shall show that the owners of such moneys or funds and their unknown assignees, personal representatives, grantees, heirs, devisees or other successors are so very numerous as to render it impossible or impracticable to bring them all before the court or to serve them with process as provided for in other cases under the civil code of Missouri, and shall show that the defendants specifically named in the petition or bill in equity have been fairly chosen and adequately and fairly represent the whole class and said attorney general, as affiant, shall allege in said application that he has exercised reasonable diligence to ascertain the whereabouts of the owners of such moneys or funds, including their unknown assignees, personal representatives, grantees, heirs, devisees, or other successors, and that after so doing he has been unable to locate their whereabouts.

5. The judge or clerk, after the filing of said application, shall issue an order of publication of notice to the named defendants, if they be living, and if any of them be not living, then to their unknown assignees, personal representatives, grantees, heirs, devisees or other successors, and to all claimants of said moneys or funds whomsoever, notifying them of the commencement of the action, stating briefly the facts and circumstances in consequence of which such moneys, refund of rates, or premiums or effects is claimed to have escheated and alleging that by reason thereof the state of Missouri has the right to such moneys, refund of rates, or premiums or effects, and describing the moneys or property sought to be escheated to the state of Missouri, giving a brief description of the origin of said moneys or funds to be thereby affected and why the same has not been distributed. And, notifying all such persons that the action is a class action and setting forth the approximate number of owners of such fund, stating that it is impossible or impracticable to name and designate all of such owners because of the fact that they are too numerous to name.

6. The notice shall also contain the name of the court and the name of the parties who are named in said suit, including the unknown assignees, personal representatives, grantees, heirs, devisees or other successors of the named defendants and of all the other claimants whomsoever of such moneys or funds, and shall state the name and address of the attorney general representing the state, as a party plaintiff, and giving the time, which shall be at least forty-five days after the date of the first publication, within which the defendants are required to appear and defend, and shall notify such defendants, their unknown assignees, personal representatives, grantees, heirs, devisees, or other successors and all claimants whomsoever that in case of their failure to do so, judgment by default decreeing that all of such moneys or funds be escheated to the state of Missouri will be rendered against them.

7. Such notice shall be published at least once each week for four successive weeks in some newspaper published in the county where suit is instituted, if there be a newspaper published there, which the attorney general may designate, if not, then in some newspaper published in the state as designated by the judge of said circuit court as most likely to give notice to the persons to be notified.

8. In such action or proceeding for the escheat of such moneys or funds, except for class actions as herein provided, personal service shall be had on those defendants whose whereabouts are known and can be served within the state of Missouri, and for the defendants who are known and who come within the provisions for service by publication as provided by the civil code of Missouri, service on such defendants and their unknown assignees, personal representatives, grantees, heirs, devisees or other successors shall be had as in other civil actions, and in class actions or proceedings where the defendants are sued as a class, service on them shall be had by publication as herein provided.]

[470.330. CLAIMS TO MONEYS OR EFFECTS RECEIVED BY TREASURER UNDER ESCHEAT JUDGMENT. — 1. Within two years after any moneys, refund of rates or premiums, or effects are received by the Missouri state treasurer by reason of a judgment or decree for escheat in favor of the state of Missouri, any person who appears and claims the same or a part of the same may file his petition in the court in which the judgment or decree for escheat was rendered, stating the nature of his claim, showing he is entitled to the same and praying that such moneys or effects be paid to him, a copy of which petition shall be personally served upon the attorney general of the state of Missouri, who shall file answer to the same or make any other defense or take any such action as he deems necessary.

2. The court shall hear evidence and examine the said claim, and the allegations and proof and if it finds that such person is entitled to any of the moneys, or effects, so paid into the state treasury, it shall order a state warrant to be issued as provided by law for the amount of said claim, but without interest or costs after the same was paid into the said state treasury; a duly certified copy of which order, under seal of the court, shall be a sufficient voucher for issuing such warrant.]

[470.340. ORDER DIRECTING PAYMENT TO STATE TREASURER — PROCEDURE. — 1. Whenever an escheat of funds mentioned in sections 470.270 to 470.350 shall occur, or be supposed to occur, the attorney general of the state may, if he so elects, file in the court in which such funds are deposited or under whose jurisdiction same are being held, a motion, petition or other proper pleading praying for an order or judgment of said court directing the payment of said funds to the state treasurer. Notice of the filing of such pleading shall be given to such parties and in such manner as the law and the orders of such court shall require. If said order is made as prayed for, the state treasurer shall receive said funds and shall keep same in a separate fund to be known and designated "Escheats".

2. Any person may appear and claim said funds or a part of same within the time and in the same manner as provided by section 470.330, and like proceedings shall be had upon such application as in said section provided.

3. The proceeding authorized by this section may be instituted and prosecuted in lieu of the proceedings heretofore authorized by sections 470.270 to 470.350 or in addition to such other proceedings.]

[470.350. UNCLAIMED ESCHEAT — DISPOSITION. — All moneys, refund of rates or premiums or effects paid into the state treasury under the provisions of sections 470.270 to 470.350, after remaining therein unclaimed for a period of two years, shall escheat and vest absolutely in the state of Missouri and shall thereafter be used and appropriated as other escheat property.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure that adequate funding is available to fully fund the school foundation formation of this state, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 19, 2002

SB 1266 [SCS SB 1266]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates felony for sale or distribution of gray market cigarettes.

AN ACT to repeal sections 149.200, 149.203, 149.206, 149.212 and 149.215, RSMo, relating to sale of cigarettes, and to enact in lieu thereof five new sections relating to the same subject, with penalty provisions.

SECTION

- A. Enacting clause.
- 149.200. Illegal activities related to cigarettes and cigarette labeling — penalty.
- 149.203. Revocation or suspension of a wholesaler's license, when — civil penalty, when — cigarettes deemed contraband, when.
- 149.206. Violation deemed unlawful trade practice.
- 149.212. Director to enforce provisions of sections 149.200 to 149.215 — attorney general's concurrent power — injunctive relief available, when.
- 149.215. Severability clause.
- 149.200. Illegal activities related to cigarettes and cigarette labeling — penalty.
- 149.203. Revocation or suspension of a wholesaler's license, when — civil penalty, when — cigarettes deemed contraband, when.
- 149.206. Violation deemed unlawful trade practice.
- 149.212. Director to enforce provisions of sections 149.200 to 149.215 — attorney general's concurrent power — injunctive relief available, when.
- 149.215. Severability clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 149.200, 149.203, 149.206, 149.212 and 149.215, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 149.200, 149.203, 149.206, 149.212 and 149.215, to read as follows:

149.200. ILLEGAL ACTIVITIES RELATED TO CIGARETTES AND CIGARETTE LABELING — PENALTY. — 1. It is unlawful for any person to:

(1) Sell or distribute in this state, to acquire, hold, own, possess or transport for sale or distribution in this state, or to import, or cause to be imported into this state for sale or distribution in this state, any cigarettes that do not comply with all requirements imposed by or pursuant to federal law and implementing regulations, including but not limited to the filing of ingredients lists pursuant to Section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a); the permanent imprinting on the primary packaging of the precise package warning labels in the precise format specified in Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333); the rotation of label statements pursuant to Section 4(c) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335(c)); restrictions on the importation, transfer and sale of previously exported tobacco products pursuant to Section 9302 of Public Law 105-33, the Balanced Budget Act of 1997, as amended; requirements of Title IV of Public Law 106-476, the Imported Cigarette Compliance Act of 2000; or

(2) Alter the package of any cigarettes, prior to sale or distribution to the ultimate consumer, so as to remove, conceal or obscure:

(a) Any statement, label, stamp, sticker or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed or used in the United States, including but not limited to labels stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording; or

(b) Any health warning that is not the precise warning statement in the precise format specified in Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333).

2. It shall be unlawful for any person to affix any tax stamp or meter impression required pursuant to this chapter to the package of any cigarettes that does not comply with the requirements of subdivision (1) of subsection 1 of this section or that is altered in violation of subdivision (2) of subsection 1 of this section.

3. This section shall not apply to cigarettes allowed to be imported or brought into the United States for personal use, or to cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b) and any implementing regulations; provided, however, that this act shall apply to any such cigarettes that are brought back into the customs territory for resale within the customs territory.

4. Any person who violates this section, whether acting knowingly or recklessly, is guilty of a class D felony.

5. As used in this section, "package" means a pack, box, carton or container of any kind in which cigarettes are offered for sale, sold or otherwise distributed to consumers.

149.203. REVOCATION OR SUSPENSION OF A WHOLESALER'S LICENSE, WHEN — CIVIL PENALTY, WHEN — CIGARETTES DEEMED CONTRABAND, WHEN. — 1. The director may revoke or suspend the license or licenses of any wholesaler pursuant to the procedures set forth in section 149.035 upon finding a violation of section 149.200, or any implementing rule promulgated by the director pursuant to this chapter. In addition, the director may impose on any person a civil penalty in an amount not to exceed the greater of five hundred percent of the retail value of the cigarettes involved or five thousand dollars, upon finding a violation by such person of sections 149.200 to 149.215, or any implementing rule promulgated by the director pursuant to this chapter.

2. Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this state in violation of sections 149.200 to 149.215 or sections 196.1000 to 196.1003, RSMo, shall be deemed contraband pursuant to section 149.055 and are subject to seizure and forfeiture as provided therein. Any cigarettes shall be deemed contraband whether the violation of sections 149.200 to 149.215 is knowing or otherwise.

149.206. VIOLATION DEEMED UNLAWFUL TRADE PRACTICE. — A violation of sections 149.200 to 149.215 shall constitute an unlawful trade practice as provided in section 407.020, RSMo, and in addition to any remedies or penalties set forth in sections 149.200 to 149.215, shall be subject to any remedies or penalties available for a violation of that section.

149.212. DIRECTOR TO ENFORCE PROVISIONS OF SECTIONS 149.200 TO 149.215 — ATTORNEY GENERAL'S CONCURRENT POWER — INJUNCTIVE RELIEF AVAILABLE, WHEN. — Sections 149.200 to 149.215 shall be enforced by the director provided, that at the request of the director or the director's duly authorized agent, the state highway patrol and all local police authorities shall enforce the provisions of sections 149.200 to 149.215. The attorney general has concurrent power with the prosecuting attorneys of the states to enforce the provisions of sections 149.200 to 149.215. Any person who sells, distributes, or manufactures cigarettes and sustains direct economic or commercial injury as a result of a violation of sections 149.200 to 149.215 may bring an action in good faith for appropriate injunctive relief.

149.215. SEVERABILITY CLAUSE. — If any provision of sections 149.200 to 149.212 is held invalid, the remainder of such sections shall not be affected.

[149.200. ILLEGAL ACTIVITIES RELATED TO CIGARETTES AND CIGARETTE LABELING —PENALTY.— 1. It is unlawful for any person to:

(1) Sell or distribute in this state, to acquire, hold, own, possess or transport for sale or distribution in this state, or to import, or cause to be imported into this state for sale or distribution in this state, any cigarettes that do not comply with all requirements imposed by or pursuant to federal law and implementing regulations, including but not limited to the filing of ingredients lists pursuant to Section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a); the permanent imprinting on the primary packaging of the precise package warning labels in the precise format specified in Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333); the rotation of label statements pursuant to Section 4(c) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335(c)); restrictions on the importation, transfer and sale of previously exported tobacco products pursuant to Section 9302 of Public Law 105-33, the Balanced Budget Act of 1997, as amended; requirements of Title IV of Public Law 106-476, the Imported Cigarette Compliance Act of 2000; or

(2) Alter the package of any cigarettes, prior to sale or distribution to the ultimate consumer, so as to remove, conceal or obscure:

(a) Any statement, label, stamp, sticker or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed or used in the United States, including but not limited to labels stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording; or

(b) Any health warning that is not the precise warning statement in the precise format specified in Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333).

2. It shall be unlawful for any person to affix any tax stamp or meter impression required pursuant to this chapter to the package of any cigarettes that does not comply with the requirements of subdivision (1) of subsection 1 of this section or that is altered in violation of subdivision (2) of subsection 1 of this section.

3. This section shall not apply to cigarettes allowed to be imported or brought into the United States for personal use, or to cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b) and any implementing regulations; provided, however, that this act shall apply to any such cigarettes that are brought back into the customs territory for resale within the customs territory.

4. Any person who violates this section, whether acting knowingly or recklessly, is guilty of a class D felony.

5. As used in this section, "package" means a pack, box, carton or container of any kind in which cigarettes are offered for sale, sold or otherwise distributed to consumers.]

[149.203. REVOCATION OR SUSPENSION OF A WHOLESALER'S LICENSE, WHEN —CIVIL PENALTY, WHEN — CIGARETTES DEEMED CONTRABAND, WHEN. — 1. The director may revoke or suspend the license or licenses of any wholesaler pursuant to the procedures set forth in section 149.035 upon finding a violation of section 149.200, or any implementing rule promulgated by the director pursuant to this chapter. In addition, the director may impose on any person a civil penalty in an amount not to exceed the greater of five hundred percent of the retail value of the cigarettes involved or five thousand dollars, upon finding a violation by such person of sections 149.200 to 149.215, or any implementing rule promulgated by the director pursuant to this chapter.

2. Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this state in violation of sections 149.200 to 149.215 or sections 196.1000 to 196.1003, RSMo, shall be deemed contraband pursuant to section 149.055 and are subject to seizure and forfeiture as provided therein. Any cigarettes shall be deemed contraband whether the violation of sections 149.200 to 149.215 is knowing or otherwise.]

[149.206. VIOLATION DEEMED UNLAWFUL TRADE PRACTICE. — A violation of sections 149.200 to 149.215 shall constitute an unlawful trade practice as provided in section 407.020, RSMo, and in addition to any remedies or penalties set forth in sections 149.200 to 149.215, shall be subject to any remedies or penalties available for a violation of that section.]

[149.212. DIRECTOR TO ENFORCE PROVISIONS OF SECTIONS 149.200 TO 149.215 — ATTORNEY GENERAL'S CONCURRENT POWER—INJUNCTIVE RELIEF AVAILABLE, WHEN. — Sections 149.200 to 149.215 shall be enforced by the director provided, that at the request of the director or the director's duly authorized agent, the state highway patrol and all local police authorities shall enforce the provisions of sections 149.200 to 149.215. The attorney general has concurrent power with the prosecuting attorneys of the states to enforce the provisions of sections 149.200 to 149.215. Any person who sells, distributes, or manufactures cigarettes and sustains direct economic or commercial injury as a result of a violation of sections 149.200 to 149.215 may bring an action in good faith for appropriate injunctive relief.]

[149.215. SEVERABILITY CLAUSE. — If any provision of sections 149.200 to 149.212 is held invalid, the remainder of such sections shall not be affected.]

Approved July 12, 2002

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HB 1495 [SCS HB 1495]

AN ACT to repeal section 130.016, RSMo, relating to elections, and to enact in lieu thereof one new section relating to the same subject.

HB 1748 [CCS SS HB 1748]

AN ACT to repeal sections 247.030, 247.031, 247.040, 247.217, 247.220, 393.705, 393.847, 640.100, 640.620, 644.016, 644.036, 644.051 and 644.052, RSMo, and to enact in lieu thereof twenty-one new sections relating to water resources.

HB 1789 [SCS HB 1789]

AN ACT to repeal sections 301.129, 301.131 and 301.453, RSMo, relating to special license plates, and to enact in lieu thereof four new sections relating to the same subject, with penalty provisions.

SB 749 [HCS SB 749]

AN ACT to repeal sections 21.250 and 116.050, RSMo, relating to powers of the general assembly, and to enact in lieu thereof three new sections relating to the same subject.

SB 961 [HCS SB 961]

AN ACT to repeal sections 86.370, 86.398, 86.447, 86.600, 86.671, and 86.745, RSMo, and to enact in lieu thereof eight new sections relating to police retirement systems.

SB 980 [HCS SCS SB 980]

AN ACT to repeal section 334.540, RSMo, and to enact in lieu thereof one new section relating to the licensing of physical therapists.

SB 1070 [HCS SCS SB 1070]

AN ACT to repeal sections 43.540, 547.170, 589.400, and 589.410, RSMo, and to enact in lieu thereof four new sections relating to protection of children, with penalty provisions.

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PROPOSED AMENDMENTS TO CONSTITUTION OF MISSOURI

HJR 47 [SS SCS HCS HJR 47]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Proposes a constitutional amendment to allow joint boards or commissions to issue revenue bonds for utility, industrial, and airport purposes.

AN ACT Submitting to the qualified voters of Missouri, an amendment repealing section 27 of article VI of the Constitution of Missouri relating to political subdivision revenue bonds for utility, industrial and airport purposes, and adopting one new section in lieu thereof relating to the same subject.

SECTION

- A. Enacting clause.
- 27. Political subdivision revenue bonds for utility, industrial and airport purposes--restrictions.
- B. Official ballot title.

Be it enacted by the General Assembly of the state of Missouri, as follows:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2002, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article VI of the Constitution of the state of Missouri:

SECTION A. ENACTING CLAUSE. — Section 27, article VI, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 27, to read as follows:

SECTION 27. POLITICAL SUBDIVISION REVENUE BONDS FOR UTILITY, INDUSTRIAL AND AIRPORT PURPOSES — RESTRICTIONS. — Any city or incorporated town or village in this state, by vote of a majority of the qualified electors thereof voting thereon, and any joint board[,] or commission, [officer or officers] established by a joint contract between municipalities or political subdivisions in this state, by [favorable vote of a majority of the qualified electors voting thereon in each of the municipalities or political subdivisions which are to participate in a project described in this subsection] **compliance with then applicable requirements of law**, may issue and sell its negotiable interest bearing revenue bonds for the purpose of paying all or part of the cost of purchasing, construction, extending or improving any of the following **projects**:

- (1) Revenue producing water, sewer, gas or electric light works, heating or power plants;
 - (2) Plants to be leased or otherwise disposed of pursuant to law to private persons or corporations for manufacturing and industrial development purposes, including the real estate, buildings, fixtures and machinery; or
 - (3) Airports[; to]. **The project shall** be owned by the municipality or by the cooperating municipalities or political subdivisions **or the joint board or commission**, either exclusively or jointly or by participation with cooperatives[,] **or** municipally owned or public utilities, the cost of operation and maintenance and the principal and interest of the bonds to be payable solely
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from the revenues derived by the municipality or by the cooperating municipalities or political subdivisions **or the joint board or commission** from the operation of the utility or the lease **or operation** of the [plant. No such joint board, commission, officer or officers established by a joint contract, or any joint venture or cooperative action or undertaking of any kind or character shall purchase, construct, extend or improve any revenue producing gas or electric light works, heating or power plants unless and until such joint boards, commissions, officer or officers, or any joint venture or cooperative action and all utility operations conducted by any joint board, commission, officer or officers are fully regulated in all respects as a public utility.]**project. The bonds shall not constitute an indebtedness of the state, or of any political subdivision thereof, and neither the full faith and credit nor the taxing power of the state or of any political subdivision thereof is pledged to the payment of or the interest on such bonds. Nothing in this section shall affect the ability of the public service commission to regulate investor-owned utilities.**

SECTION B. OFFICIAL BALLOT TITLE. — Pursuant to section 116.155, RSMo, the official ballot title shall be:

"Shall joint boards or commissions, established by contract between political subdivisions, be authorized to own joint projects, to issue bonds in compliance with then applicable requirements of law, the bonds not being indebtedness of the state or political subdivisions, and such activities not to be regulated by the Public Service Commission?"

Pursuant to section 116.155, RSMo, the fiscal note summary shall be:

"This measure provides potential savings of state revenue and imposes no new costs."

SJR 24 [HCS SJR 24]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises term limits to exclude certain partial terms of service in the General Assembly.

JOINT RESOLUTION Submitting to the qualified voters of Missouri an amendment repealing section 8 of article III of the Constitution of Missouri, and adopting one new section in lieu thereof relating to term limits.

SECTION

- A. Enacting clause.
- 8. Term limitations for members of General Assembly.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2002, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article III of the Constitution of the state of Missouri:

SECTION A. ENACTING CLAUSE. — Section 8, article III, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 8, to read as follows:

SECTION 8. TERM LIMITATIONS FOR MEMBERS OF GENERAL ASSEMBLY. — No one shall be elected [or appointed] to serve more than eight years total in any one house of the General Assembly nor more than sixteen years total in both houses of the General Assembly. In applying this section, service in the General Assembly resulting from an election [or appointment] prior to [the effective date of this section] **December 3, 1992, or service of less than one year, in the case of a member of the house of representatives, or two years, in the case of a member of the senate, by a person elected after the effective date of this section to complete the term of another person,** shall not be counted.

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PROPOSED REFERENDUMS

SPECIAL ELECTION, TUESDAY, AUGUST 6, 2002

PROPOSITION A — Proposed by the 89th General Assembly (Second Regular Session)
Resubmitted by the Governor
Section 190.440, RSMo 2000)

Shall the Missouri Office of Administration be authorized to establish a fee of up to fifty cents per month to be charged every wireless telephone (cell phone) number for the purpose of funding statewide wireless enhanced 911 service?

PROPOSITION B — Proposed by the 91st General Assembly (Second Regular Session)
CCS HS SCS SB Nos. 915, 710 & 907

Shall Missouri statutes be amended to impose additional sales and use taxes of one-half cent on the dollar and an additional motor fuel tax of four cents per gallon, for highway and transportation purposes until July, 2013, unless extended by a vote of the people, and establish an inspector general within the department of transportation?

An additional one-half cent sales/use tax on tangible personal property and four cent per gallon motor fuel tax for highways, roads, bridges and public transportation generate total annual tax revenues of approximately:

State	\$431,000,000
Local	\$ 52,000,000

(See following page for full text of CCS HS SCS SB Nos. 915, 710 & 907)

SB 915 [CCS HS SCS SB 915, 710 & 907]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Raises motor fuel tax and sales tax and diverts other revenues to fund transportation projects.

AN ACT to repeal sections 142.803, 144.020, 144.021, 144.440, 144.700 and 226.200, RSMo, relating to measures to increase funding for transportation, and to enact in lieu thereof eight new sections relating to the same subject, with a referendum clause, effective date and a contingent termination date for certain sections.

SECTION

- A. Enacting clause.
- 142.803. Imposition of tax on fuel, amount — collection and precollection of tax.
- 144.020. Rate of tax — tickets, notice of sales tax — lease or rental of personal property exempt from tax, when.
- 144.021. Imposition of tax — seller's duties.
- 144.440. Use tax on purchased or leased motor vehicles, trailers, boats and outboard motors — option of lessor, effect of.
- 144.700. Revenue placed in general revenue, exception placement in school district trust fund — payment under protest, procedure, appeal, refund.
- 226.094. Inspector general position established in department of transportation, duties, powers.
- 226.200. State highways and transportation department fund — sources of revenue — expenditures.
- 226.1000. Distribution and use of certain additional tax revenues on fuel and property.
 - B. Referendum clause.
 - C. Additional tax revenues for certain property not part of total state revenue or an expense of state government.
 - D. Decennial referendum required for certain additional tax revenues for transportation, effect of vote.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 142.803, 144.020, 144.021, 144.440, 144.700 and 226.200, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 142.803, 144.020, 144.021, 144.440, 144.700, 226.094, 226.200 and 226.1000, to read as follows:

142.803. IMPOSITION OF TAX ON FUEL, AMOUNT — COLLECTION AND PRECOLLECTION OF TAX. — 1. A tax is levied and imposed on all motor fuel used or consumed in this state as follows:

(1) Motor fuel, seventeen cents per gallon. [Beginning April 1, 2008, the tax rate shall become eleven cents per gallon] **Beginning on the effective date of this act, the motor fuel tax rate shall be twenty-one cents per gallon;**

(2) Alternative fuels, not subject to the decal fees as provided in section 142.869, with a power potential equivalent of motor fuel. In the event alternative fuel, which is not commonly sold or measured by the gallon, is used in motor vehicles on the highways of this state, the director is authorized to assess and collect a tax upon such alternative fuel measured by the nearest power potential equivalent to that of one gallon of regular grade gasoline. The determination by the director of the power potential equivalent of such alternative fuel shall be prima facie correct;

(3) Aviation fuel used in propelling aircraft with reciprocating engines, nine cents per gallon as levied and imposed by section 155.080, RSMo, to be collected as required under this chapter.

2. All taxes, surcharges and fees are imposed upon the ultimate consumer, but are to be precollected as described in this chapter, for the facility and convenience of the consumer. The levy and assessment on other persons as specified in this chapter shall be as agents of this state for the precollection of the tax.

144.020. RATE OF TAX — TICKETS, NOTICE OF SALES TAX — LEASE OR RENTAL OF PERSONAL PROPERTY EXEMPT FROM TAX, WHEN. — 1. A tax is hereby levied and imposed upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state. The rate of tax shall be as follows:

(1) Upon every retail sale in this state of tangible personal property, including but not limited to motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats and outboard motors, a tax equivalent to four **and one-half** percent of the purchase price paid or charged, or in case such sale involves the exchange of property, a tax equivalent to four **and one-half** percent of the consideration paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, except as otherwise provided in section 144.025;

(2) A tax equivalent to four **and one-half** percent of the amount paid for admission and seating accommodations, or fees paid to, or in any place of amusement, entertainment or recreation, games and athletic events;

(3) A tax equivalent to four **and one-half** percent of the basic rate paid or charged on all sales of electricity or electrical current, water and gas, natural or artificial, to domestic, commercial or industrial consumers;

(4) A tax equivalent to four **and one-half** percent on the basic rate paid or charged on all sales of local and long distance telecommunications service to telecommunications subscribers and to others through equipment of telecommunications subscribers for the transmission of messages and conversations and upon the sale, rental or leasing of all equipment or services pertaining or incidental thereto; except that, the payment made by telecommunications subscribers or others, pursuant to section 144.060, and any amounts paid for access to the Internet or interactive computer services shall not be considered as amounts paid for telecommunications services;

(5) A tax equivalent to four **and one-half** percent of the basic rate paid or charged for all sales of services for transmission of messages of telegraph companies;

(6) A tax equivalent to four **and one-half** percent on the amount of sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are regularly served to the public;

(7) A tax equivalent to four **and one-half** percent of the amount paid or charged for intrastate tickets by every person operating a railroad, sleeping car, dining car, express car, boat, airplane and such buses and trucks as are licensed by the division of motor carrier and railroad safety of the department of economic development of Missouri, engaged in the transportation of persons for hire;

(8) A tax equivalent to four **and one-half** percent of the amount paid or charged for rental or lease of tangible personal property, provided that if the lessor or renter of any tangible personal property had previously purchased the property under the conditions of "sale at retail" as defined in subdivision [(8)] **(10)** of section 144.010 or leased or rented the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor, renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or subrental receipts from that property. The purchase, rental or lease of motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard motors shall be taxed and the tax paid as provided in this section and section 144.070. In no event shall the rental or lease of boats and outboard motors be considered a sale, charge, or fee to, for or in places of amusement, entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to, for, or in such places of amusement, entertainment or recreation. Rental and leased boats or outboard motors shall be taxed under the provisions of the sales tax laws as provided under such laws for motor vehicles and trailers. Tangible personal property which is exempt from the sales or use tax under section 144.030 upon a sale thereof is likewise exempt from the sales or use tax upon the lease or rental thereof.

2. All tickets sold which are sold under the provisions of sections 144.010 to 144.525 which are subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the words "This ticket is subject to a sales tax."

144.021. IMPOSITION OF TAX — SELLER'S DUTIES. — The purpose and intent of sections 144.010 to [144.510] **144.525** is to impose a tax upon the privilege of engaging in the business, in this state, of selling tangible personal property and those services listed in section 144.020. The primary tax burden is placed upon the seller making the taxable sales of property or service and is levied at the rate provided for in section 144.020. Excluding sections 144.070, 144.440 and 144.450, the extent to which a seller is required to collect the tax from the purchaser of the taxable property or service is governed by section 144.285 and in no way affects sections 144.080 and 144.100, which require all sellers to report to the director of revenue their "gross receipts", defined herein to mean the aggregate amount of the sales price of all sales at retail, and remit tax at four **and one-half** percent of their gross receipts.

144.440. USE TAX ON PURCHASED OR LEASED MOTOR VEHICLES, TRAILERS, BOATS AND OUTBOARD MOTORS — OPTION OF LESSOR, EFFECT OF. — 1. In addition to all other taxes now or hereafter levied and imposed upon every person for the privilege of using the highways or waterways of this state, there is hereby levied and imposed a tax equivalent to four **and one-half** percent of the purchase price, as defined in section 144.070, which is paid or charged on new and used motor vehicles, trailers, boats, and outboard motors purchased or acquired for use on the highways or waters of this state which are required to be registered under the laws of the state of Missouri.

2. At the time the owner of any such motor vehicle, trailer, boat, or outboard motor makes application to the director of revenue for an official certificate of title and the registration of the same as otherwise provided by law, he shall present to the director of revenue evidence satisfactory to the director showing the purchase price paid by or charged to the applicant in the acquisition of the motor vehicle, trailer, boat, or outboard motor, or that the motor vehicle, trailer, boat, or outboard motor is not subject to the tax herein provided and, if the motor vehicle, trailer, boat, or outboard motor is subject to the tax herein provided, the applicant shall pay or cause to be paid to the director of revenue the tax provided herein.

3. In the event that the purchase price is unknown or undisclosed, or that the evidence thereof is not satisfactory to the director of revenue, the same shall be fixed by appraisalment by the director.

4. No certificate of title shall be issued for such motor vehicle, trailer, boat, or outboard motor unless the tax for the privilege of using the highways or waters of this state has been paid or the vehicle, trailer, boat, or outboard motor is registered under the provisions of subsection 5 of this section.

5. The owner of any motor vehicle, trailer, boat, or outboard motor which is to be used exclusively for rental or lease purposes may pay the tax due thereon required in section 144.020 at the time of registration or in lieu thereof may pay a use tax as provided in sections 144.010, 144.020, 144.070 and 144.440. A use tax shall be charged and paid on the amount charged for each rental or lease agreement while the motor vehicle, trailer, boat, or outboard motor is domiciled in the state. If the owner elects to pay upon each rental or lease, he shall make an affidavit to that effect in such form as the director of revenue shall require and shall remit the tax due at such times as the director of revenue shall require.

6. In the event that any leasing company which rents or leases motor vehicles, trailers, boats, or outboard motors elects to collect a use tax, all of its lease receipt would be subject to the use tax, regardless of whether or not the leasing company previously paid a sales tax when the vehicle, trailer, boat, or outboard motor was originally purchased.

7. The provisions of this section, and the tax imposed by this section, shall not apply to manufactured homes.

144.700. REVENUE PLACED IN GENERAL REVENUE, EXCEPTION PLACEMENT IN SCHOOL DISTRICT TRUST FUND — PAYMENT UNDER PROTEST, PROCEDURE, APPEAL, REFUND. — 1. All revenue received by the director of revenue from the tax imposed by sections 144.010 to 144.430 and 144.600 to 144.745, **including any payments of taxes made under protest, shall be deposited in the state general revenue fund** except [that] for:

(1) The revenue derived from the rate of one cent on the dollar of the tax which shall be held and distributed in the manner provided in sections 144.701 and 163.031, RSMo[, shall be deposited in the state general revenue fund, including any payments of the taxes made under protest];

(2) Twenty percent of the revenue derived from the rate of one-half cent on the dollar of the tax imposed by this act shall be deposited in the state transportation fund to be used for transportation purposes other than highways, as provided in section 226.225, RSMo. Thirty-three percent of this amount shall be used exclusively for capital improvements, excluding the operational costs, of public transportation facilities or projects authorized by section 226.225, RSMo;

(3) Two percent of the revenue derived from the rate of one-half cent on the dollar of the tax imposed by this act shall be deposited, in an equal amount, to the Missouri qualified fuel ethanol producer incentive fund and to the Missouri qualified biodiesel producer incentive fund, as established in chapter 142, RSMo, if existing. If not existing, then the full two percent shall be deposited in the Missouri qualified fuel ethanol producer incentive fund;

(4) Seventy-eight percent of the revenue derived from the rate of one-half cent on the dollar imposed by this act shall be deposited in the state road fund as established in section 226.220, RSMo; and

(5) All of the revenue derived from the additional sales tax rate of one-half cent on the dollar imposed by this act on all motor vehicles, trailers, motorcycles, mopeds and motortricycles shall be held and distributed in the manner provided by section 226.1000, RSMo.

2. The director of revenue shall keep accurate records of any payment of the tax made under protest. In the event any payment shall be made under protest:

(1) A protest affidavit shall be submitted to the director of revenue within thirty days after the payment is made; and

(2) An appeal shall be taken in the manner provided in section 144.261 from any decision of the director of revenue disallowing the making of the payment under protest or an application shall be filed by a protesting taxpayer with the director of revenue for a stay of the period for appeal on the ground that a case is presently pending in the courts involving the same question, with an agreement by the taxpayer to be bound by the final decision in the pending case.

3. Nothing in this section shall be construed to apply to any refund to which the taxpayer would be entitled under any applicable provision of law.

4. All payments deposited in the state general revenue fund that are made under protest shall be retained in the state treasury if the taxpayer does not prevail. If the taxpayer prevails, then taxes paid under protest shall be refunded to the taxpayer, with all interest income derived therefrom, from funds appropriated by the general assembly for such purpose.

226.094. INSPECTOR GENERAL POSITION ESTABLISHED IN DEPARTMENT OF TRANSPORTATION, DUTIES, POWERS. — 1. The position of inspector general is hereby officially established within the department of transportation. The inspector general shall be subject to appointment by the director and shall report to and be under the general supervision of the director. However, the commission may request the inspector general to perform specific investigations, reviews, or other studies. The inspector general shall file an annual report with the joint committee on transportation oversight. Such report shall be available for public inspection.

2. In addition to any duties which may be assigned to the inspector general by the director, it shall be the duty of the inspector general to:

(1) Promote economy, efficiency, effectiveness, and public integrity in the administration of the programs and operations of the department;

(2) Detect and prevent fraud, waste, and abuse in programs and operations;

(3) Conduct and supervise investigations and reviews relating to department of transportation programs and operations;

(4) Provide independent and objective assistance to help assure the department is operated in compliance with the constitutions and laws of the United States and the state of Missouri; and

(5) Keep the commission, the director, and the director's staff fully and currently informed about any problems or deficiencies relating to the administration of department programs and operations and the necessity for and progress of any corrective actions taken.

3. To accomplish the duties of the inspector general, the inspector general may investigate, conduct reviews, or perform audits relating to the use of highway user fees and taxes by the department of transportation, the department of revenue, the office of administration, and the state highway patrol. The accounts and records of the department of transportation, the state highway patrol, the office of administration, the department of revenue and other parties which use or receive taxes or fees derived from highway users as an incident to their use or right to use the highways of this state shall be open to inspection and review by the inspector general, for the purpose of obtaining information necessary in the performance of the duties of the inspector general. The inspector general shall have the power to subpoena witnesses or obtain the production of records when necessary for the performance of the inspector general's duties. The inspector general may also investigate and review any contract entered into by the department of transportation and any other party to determine compliance with federal and state law.

4. To accomplish the duties assigned to the inspector general, the inspector general shall maintain records of all investigations conducted by the inspector general, including any record or document or thing, any summary, writing, complaint, data of any kind, tape or video recordings, electronic transmissions, e-mail, other paper or electronic documents, records, reports, digital recordings, photographs, software programs and software, expense accounts, phone logs, diaries, travel logs, or other things, including originals or copies of any of the above. All such records shall be considered open records pursuant to the provisions contained in section 610.010, RSMo. Any records detained above which are prepared by the inspector general in conjunction with an investigation into a crime or suspected crime, or an investigation into an action that violates a civil law of this state, may be closed within the office of the inspector general during the investigation thereof of the matter until the matter becomes inactive, which shall be defined as an investigation in which no further action will be taken by the inspector general because it has decided not to pursue the case; expiration of the time to file criminal charges or civil suit or ten years after the commission of the act, whichever date earliest occurs; or finality of the conviction of all persons convicted on the basis of the information contained in the investigative report or termination of all civil action involving the information contained in the investigative report, by the exhaustion of or expiration of all rights of appeal by such person. All records not specifically closed by the above provisions shall be deemed to be an open record except as otherwise provided by subdivision (13) of section 610.021, RSMo.

226.200. STATE HIGHWAYS AND TRANSPORTATION DEPARTMENT FUND — SOURCES OF REVENUE — EXPENDITURES. — 1. There is hereby created a "State Highways and Transportation Department Fund" into which shall be paid or transferred all state revenue derived

from highway users as an incident to their use or right to use the highways of the state, including all state license fees and taxes upon motor vehicles, trailers, and motor vehicle fuels, and upon, with respect to, or on the privilege of the manufacture, receipt, storage, distribution, sale or use thereof (excepting the sales tax on motor vehicles and trailers, and all property taxes), and all other revenue received or held for expenditure by or under the department of transportation or the state highways and transportation commission, except:

- (1) Money arising from the sale of bonds;
- (2) Money received from the United States government; or
- (3) Money received for some particular use or uses other than for the payment of principal and interest on outstanding state road bonds.

2. Subject to the limitations of subsection 3 of this section, from said fund shall be paid or credited the cost:

- (1) Of collection of all said state revenue derived from highway users as an incident to their use or right to use the highways of the state;
- (2) Of maintaining the state highways and transportation commission;
- (3) Of maintaining the state transportation department;
- (4) Of any workers' compensation for state transportation department employees;
- (5) Of the share of the transportation department in any retirement program for state employees, only as may be provided by law; and
- (6) Of administering and enforcing any state motor vehicle laws or traffic regulations.

3. [For all future fiscal years,] The total amount of appropriations from the state highways and transportation department fund for all state offices [and], departments **and elective offices, except for the highway patrol; the department of revenue for actual costs of collecting taxes and fees derived from highway users as an incident to their use or right to use the highways of this state; and actual costs incurred by the office of administration for or on behalf of the highway patrol and employees of the department of revenue for actual collection costs as described in this subsection** shall [not exceed the total amount appropriated for such offices and departments from said fund for fiscal year 2001] **be zero beginning the first fiscal year following voter approval of this act and for all fiscal years thereafter. Appropriations to the highway patrol from the state highways and transportation department fund shall be made in accordance with article IV, section 30(b) of the Missouri Constitution. Appropriations allocated from the state highways and transportation department fund to the highway patrol shall only be used by the highway patrol to administer and enforce state motor vehicle laws or traffic regulations. The inspector general, as established in section 226.094, is authorized to conduct an audit of the state highways and transportation department fund to ensure compliance with this section.**

4. The provisions of subsection 3 of this section shall not apply to appropriations from the state highways and transportation department fund to the highways and transportation commission and the state transportation department or to appropriations to the office of administration for department of transportation employee fringe benefits and OASDHI payments, or to appropriations to the department of revenue for motor vehicle fuel tax refunds under chapter 142, RSMo, or to appropriations to the department of revenue for refunds or overpayments or erroneous payments from the state highways and transportation department fund.

5. All interest earned upon the state highways and transportation department fund shall be deposited in and to the credit of such fund.

6. Any balance remaining in said fund after payment of said costs shall be transferred to the state road fund.

[7. Notwithstanding the provisions of subsection 2 of this section to the contrary, any funds raised as a result of increased taxation pursuant to sections 142.025 and 142.372, RSMo, after April 1, 1992, shall not be used for administrative purposes or administrative expenses of the transportation department.]

226.1000. DISTRIBUTION AND USE OF CERTAIN ADDITIONAL TAX REVENUES ON FUEL AND PROPERTY. — 1. One-half of all of the revenue derived from the additional rate of one-half cent on the dollar imposed by this act on all motor vehicles, trailers, motorcycles, mopeds and motortricycles shall be dedicated for highway and transportation use and distributed pursuant to subsection 2 of section 30(b) of article IV of the Missouri Constitution.

2. Beginning on the effective date of this act, all of the remaining revenue derived from the additional sales tax rate of one-half cent on the dollar imposed by this act on all motor vehicles, trailers, motorcycles, mopeds and motortricycles, which is not distributed pursuant to subsection 1 of this section, shall be distributed as follows:

(1) Twenty percent shall be deposited in the state transportation fund to be used for transportation purposes other than highways, as provided in section 226.225, RSMo. Thirty-three percent of this amount shall be used exclusively for capital improvements, excluding the operational costs, of public transportation facilities or projects authorized by section 226.225, RSMo;

(2) Two percent shall be deposited, in an equal amount, to the Missouri qualified fuel ethanol producer incentive fund and to the Missouri qualified biodiesel producer incentive fund, as established in chapter 142, RSMo, if existing. If not existing, then the full two percent shall be deposited in the Missouri qualified fuel ethanol producer incentive fund; and

(3) Seventy-eight percent shall be deposited in the state road fund as established in section 226.220, RSMo.

SECTION B. REFERENDUM CLAUSE. — This act is hereby submitted to the qualified voters of this state for approval or rejection at a special election which is hereby ordered and which shall be held and conducted on the first Tuesday in August, 2002, pursuant to the laws and constitutional provisions of this state applicable to general elections, and this act shall become effective on the first day of January after the provisions of this act have been approved by a majority of the votes cast thereon at such election and not otherwise.

SECTION C. ADDITIONAL TAX REVENUES FOR CERTAIN PROPERTY NOT PART OF TOTAL STATE REVENUE OR AN EXPENSE OF STATE GOVERNMENT. — The additional revenue provided by sections 144.020, 144.021, 144.440, 144.700 and 226.1000 of this act shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of the Missouri Constitution. The expenditure of this revenue shall not be an "expense of state government" under section 20 of article X of the Missouri Constitution.

SECTION D. DECENNIAL REFERENDUM REQUIRED FOR CERTAIN ADDITIONAL TAX REVENUES FOR TRANSPORTATION, EFFECT OF VOTE. — At the general election on the Tuesday next following the first Monday in November, 2012, the secretary of state shall submit to the electors of this state the question "Shall the additional revenues for transportation be renewed and extended?". If a majority of the votes cast thereon is for the affirmative the additional revenues shall be continued. If a majority of the votes cast thereon is for the negative, the rates included in sections 144.020, 144.021, 144.440, 144.700 and 226.1000 directing deposit and use of revenues pursuant to this act shall expire on July first following the election and return to the provisions in effect on January 1, 2002. If a majority of the votes cast thereon is for the negative, the motor fuel tax rate provided for in section 142.803 shall expire on July first following the election and return to seventeen cents per gallon.

HOUSE CONCURRENT RESOLUTIONS

HOUSE CONCURRENT RESOLUTION NO. 3

WHEREAS, the State of Missouri would like to have the two hundred five acres which were previously given to it by the city of Licking for the construction of a correctional center annexed into the city limits of Licking; and

WHEREAS, the city of Licking would also like to encompass such area; and

WHEREAS, section 71.012, RSMo, requires that for voluntary annexation all fee interest owners of property within a proposed area of annexation sign a verified petition requesting such annexation; and

WHEREAS, section 37.005, RSMo, vests the fee title of this state property in the Governor:

NOW, THEREFORE, BE IT RESOLVED that the members of the Missouri House of Representatives of the Ninety-first General Assembly, Second Regular Session, the Senate concurring therein, hereby authorize the Governor to approve the proposed annexation of the aforementioned two hundred five acres into the city of Licking; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for the Governor and the Board of Aldermen of the city of Licking, Missouri.

HOUSE CONCURRENT RESOLUTION NO. 4

WHEREAS, on April 24, 1915, three hundred Armenian leaders, writers, thinkers and professionals and five thousand of the poorest Armenians in Constantinople were rounded up and killed in the streets and in their homes by the Young Turk government of the Ottoman Empire; and

WHEREAS, from 1915 to 1923 nearly one and a half million Armenian men, women, and children out of a total of two and a half million Armenians in the Ottoman Empire were systematically sent to concentration camps, tortured and murdered by the Turks; and

WHEREAS, the United States was the first country to recognize the Armenian Genocide and raise millions of dollars to aid the victims of the Genocide; and

WHEREAS, most Armenians in the United States are children or grandchildren of the survivors of the Armenian Genocide; and

WHEREAS, by remembering and forcefully condemning the atrocities committed against the Armenians and honoring the survivors, as well as other victims of similar heinous conduct, we guard against repetition of such acts of genocide; and

WHEREAS, April 24 is the date on which Armenians around the world commemorate the Genocide in recognition of the day in 1915 when over five thousand Armenians were killed in Constantinople by the Turkish Ottoman Empire:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-first General Assembly, Second Regular Session, the Senate concurring therein, hereby declare April 24th to be a "Day of Remembrance of the Armenian Genocide"; and

BE IT FURTHER RESOLVED that all Missourians be encouraged to observe the day in a manner that honors the survivors and brings to mind the meaning and historical significance of the Armenian Genocide

HOUSE CONCURRENT RESOLUTION NO. 5

WHEREAS, American Sign Language (ASL) has been appropriately recognized by the Missouri General Assembly as "a fully developed, autonomous, unique, visual-gestural language with its own syntax, rhetoric, grammar and morphology" (Section 209.285, RSMo); and

WHEREAS, there are an estimated 546,000 persons in Missouri who are deaf or hard of hearing, of whom approximately 10,000 have American Sign Language (ASL) as their first or native language; and

WHEREAS, the Missouri General Assembly truly values the socio, cultural, ethnic, and linguistic diversity of its citizenry:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-first General Assembly, Second Regular Session, the Senate concurring therein, hereby recognize American Sign Language as the first or native language of many of its deaf and hard of hearing citizens; and

BE IT FURTHER RESOLVED that the members of the House of Representatives of the Ninety-first General Assembly, Second Regular Session, the Senate concurring therein, hereby urge the Governor to establish by executive order an annual "Deaf Awareness Week" to be held in September of each year to coincide with the International Deaf Awareness Week, at which time the language, culture, and contributions of Missouri's deaf and hard of hearing citizens will be recognized; recognize the diversity of deaf and hard of hearing citizens, including both the oral deaf and the signing deaf; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare a properly inscribed copy of this resolution for Governor Bob Holden.

HOUSE CONCURRENT RESOLUTION NO. 6

WHEREAS, on September 11, 2001, terrorists hijacked and destroyed four civilian aircraft, crashing two of them into the towers of the World Trade Center in New York City, and a third into the Pentagon outside Washington, D.C., and a fourth into the ground in Pennsylvania; and

WHEREAS, thousands of innocent Americans were killed or injured as a result of these attacks, including the passengers and crew of the four aircraft, workers in the World Trade Center and in the Pentagon, rescue workers and bystanders; and

WHEREAS, these attacks destroyed both towers of the World Trade Center, as well as adjacent buildings and, by targeting symbols of American strength and success, clearly were intended to intimidate our Nation and weaken its resolve;

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-first General Assembly, Second Regular Session, the Senate concurring therein, recommend that Congress condemns in the strongest possible terms the terrorists who planned and carried out the September 11, 2001, attacks against the United States, as well as their sponsors; that we extend our deepest condolences to the victims of these heinous and cowardly attacks, as well as to their families, friends and loved ones; that the people of Missouri will stand united as our Nation begins the process of recovering and rebuilding in the aftermath of these tragic acts; that we commend the heroic action of the rescue workers, volunteers, and State and local officials who responded to these tragic events with courage, determination, and skill; that we declare that these premeditated attacks struck not only at the people of America, but also at the symbols and structures of our economic and military strength, and that the United States is entitled to respond under international law; that we extend our thanks to those foreign leaders and individuals who have expressed solidarity with the United States in the aftermath of the attacks, and ask them to continue to stand with the United States in the war against international terrorism; that we commit to support increased resources in the war to eradicate terrorism; and that we support the determination of the President, in close consultation with Congress, to bring to justice and punish the perpetrators of these attacks as well as their sponsors; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare a properly inscribed copy of this resolution for members of the Missouri Congressional Delegation.

HOUSE CONCURRENT RESOLUTION NO. 7

WHEREAS, the horrific terrorist attacks of September 11, 2001, and the subsequent anthrax outbreak have had a profound affect on federal and state governments and constituencies; and

WHEREAS, the General Assembly of the State of Missouri is aware that most public health departments do not have the financial resources to respond to an event of the magnitude of this disaster; and

WHEREAS, many state budgets are in a deficit situation, with cuts occurring in public health; and

WHEREAS, the General Assembly of the State of Missouri recognizes that the communication and coordination between federal, state, and local health departments and governments must be improved to provide preparation, response, and continuum of care when handling an emergency situation:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-first General Assembly, Second Regular Session, the Senate concurring therein, hereby request the United States Congress and the Department of Health and Human Services to provide financial support for each state, particularly at the local health district level which would likely be the line of first response in the event of an act of bioterrorism; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for the Speaker of the United States House of Representatives, the Majority Leader of the United States Senate, and the Secretary of the Department of Health and Human Services.

**HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE CONCURRENT RESOLUTION NO. 11**

WHEREAS, the State of Missouri borders 488 miles of the Mississippi River; and

WHEREAS, many of Missouri's locks and dams are more than 60 years old and only 600 feet long, making them unable to accommodate modern barge tows of 1,200 feet long, nearly tripling locking times, and causing lengthy delays and ultimately increasing shipping costs; and

WHEREAS, the use of 1,200-foot locks has been proven nationwide as the best method of improving efficiency, reducing congestion, and modernizing the inland waterways; and

WHEREAS, the construction of the lock and dam system has spurred economic growth and a higher standard of living in the Mississippi and Illinois river basin, and today supplies more than 300 million tons of the nation's cargo, supporting more than 400,000 jobs, including 90,000 in manufacturing; and

WHEREAS, more than 60 percent of American agriculture exports, including corn, wheat, and soybeans, are shipped down the Mississippi and Illinois rivers on the way to foreign markets; and

WHEREAS, Missouri farmers, producers, and consumers rely on efficient transportation to remain competitive in a global economy, and efficiencies in river transport offset higher production costs compared to those incurred by foreign competitors; and

WHEREAS, the Upper Mississippi and Illinois lock and dam system saves our nation more than 1.5 billion dollars in higher transportation costs each year, and failing to construct 1,200-foot locks will cause farmers to use more expensive alternative modes of transportation, including trucks and trains; and

WHEREAS, according to the United States Army Corps of Engineers, congestion along the Upper Mississippi and Illinois rivers is costing Missouri and other producers and consumers in the basin 98 million dollars a year in higher transportation costs; and

WHEREAS, river transportation is the most environmentally friendly form of transporting goods and commodities, creating almost no noise pollution and emitting 35 to 60 percent fewer pollutants than either trucks or trains according to the United States Environmental Protection Agency; and

WHEREAS, moving away from river transport would add millions of trucks and rail cars to our nation's infrastructure, adding air pollution, traffic congestion, and greater wear and tear on highways; and

WHEREAS, backwater lakes created by the lock and dam system provide breeding grounds for migratory waterfowl and fish; and

WHEREAS, the lakes and 500 miles of wildlife refuge also support a billion-dollar-a-year recreational industry, including hunting, fishing, and tourism jobs; and

WHEREAS, upgrading the system of locks and dams on the Upper Mississippi and Illinois rivers will provide 3,000 high-paying construction and related jobs over a 15 to 20 year period with health benefits which will benefit not only those directly employed, but the local health care systems and economies of the communities in which these individuals live and work; and

WHEREAS, in 1999, the State of Missouri shipped 18.8 million tons of commodities, including grain, coal, chemicals, aggregates, and other products; and

WHEREAS, 38.6 million tons of commodities, including grain, coal, chemicals, aggregates, and other products, were shipped to, from, and within Missouri by barge, representing 4.2 billion dollars in value; and

WHEREAS, shippers moving by barge in Missouri realized a savings of approximately \$380 million compared to other transportation modes; and

WHEREAS, Missouri docks shipped products by barge to 18 states and received products from 17 states; and

WHEREAS, the Port of Metropolitan St. Louis shipped and received 32.6 million tons of commodities in 1999 worth over 5 billion dollars and is the second busiest inland port in the United States, linking rural Missouri and St. Louis with world markets; and

WHEREAS, there are approximately 183 manufacturing facilities, terminals, and docks on the waterways of Missouri, representing thousands of jobs in this state:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-first General Assembly, Second Regular Session, the Senate concurring therein, hereby recognize the importance of inland waterway transportation to Missouri agriculture and industry in the state, the region, and the nation, and urge the United States Congress to authorize funding to construct 1,200-foot locks on the Upper Mississippi and Illinois River System; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for the President of the United States Senate, the Speaker of the United States House of Representatives, the Chair of the United States Senate Committee on Commerce, Science, and Transportation, the Chair

of the United States House Committee on Transportation and Infrastructure, and each member of the Missouri Congressional Delegation.

HOUSE CONCURRENT RESOLUTION NO. 13

WHEREAS, HR 3113, the TANF Reauthorization Act of 2001, was introduced in the United States House of Representatives on October 12, 2001, which would reform the Temporary Assistance for Needy Families program to make it clear that the program's principal focus is the long-term reduction of poverty rather than a short-term immediate reduction in the welfare rolls; and

WHEREAS, HR 3113 would also make it clear that postsecondary education is a work activity under the TANF program by providing access to postsecondary education for TANF recipients as a permissible work activity; and

WHEREAS, in the United States, education has always been a route to economic self-sufficiency and social mobility; and

WHEREAS, in the twenty-first century, at least one year of postsecondary education will become increasingly more essential for all workers; and

WHEREAS, TANF does not currently extend our nation's commitment to educational opportunity to persons living in poverty with their children, but who are ready, willing, and able to benefit from postsecondary education; and

WHEREAS, data from several studies has demonstrated that the additional earning capacity that a postsecondary education provides can make the difference between economic self-sufficiency and continued poverty for many TANF recipients; and

WHEREAS, among families headed by African American, Latino, and Caucasian women, the poverty rate declines from fifty-one, forty-one, and twenty-two percent to twenty-one, eighteen and one-half, and thirteen percent, respectively, with at least one year of postsecondary education; and

WHEREAS, further data has found that postsecondary education not only increases incomes, it also improves self-esteem, increases children's education ambitions, including aspiring to enter postsecondary education themselves, and has a dramatic impact on quality of life; and

WHEREAS, now more than ever TANF recipients need postsecondary education to obtain the knowledge and skills required to compete for jobs and enable them to lift themselves and their children out of poverty in the long-term; and

WHEREAS, without some postsecondary education, most women who leave welfare for employment will earn wages that place them far below the federal poverty level, even after five years of employment; and

WHEREAS, allowing TANF recipients to attend postsecondary education, even for a short time, will improve their earning potential significantly, with the average person who attends a

community college, even without graduating, earning approximately ten percent more than those persons who do not attend postsecondary education at all; and

WHEREAS, women who receive TANF assistance clearly appreciate the importance and role of postsecondary education in moving them out of poverty to long-term economic self-sufficiency; and

WHEREAS, as of November 1999, at least nineteen states had considered or enacted strategies to support recipient's efforts to achieve long-term economic self-sufficiency through the pursuit of postsecondary education:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-first General Assembly, Second Regular Session, the Senate concurring therein, support HR 3113, the TANF Reauthorization Act of 2001; and

BE IT FURTHER RESOLVED that the General Assembly urges Missouri's Congressional delegation to support the passage of HR 3113, the TANF Reauthorization Act of 2001; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and each member of Missouri's Congressional delegation.

**HOUSE SUBSTITUTE FOR
HOUSE CONCURRENT RESOLUTION NO. 15**

WHEREAS, following the recent collapse of Enron, many people believe it is time to revise corporate governance policies and focus on employer practices with company stock in their retirement plans; and

WHEREAS, currently many employees are required to invest in their company's defined contribution retirement savings program, without the option of receiving benefits in any form other than the company's stock; and

WHEREAS, the lack of diversification in employee retirement savings programs leaves many employees extremely vulnerable, as evidenced by the many Enron employees with only company stock in their retirement savings plan, resulting in a complete loss all of their retirement savings following the collapse of Enron; and

WHEREAS, unless tougher corporate governance policies are put in place soon, many other companies may experience a similar devaluation of their assets in the current falling economy; and

WHEREAS, the "Employee Retirement Savings Bill of Rights", H.R. 3669, has been introduced in the 107th Congress and would allow workers to transfer matching employer contributions from company stock and to pay for retirement advice and counseling on a pretax basis through payroll deduction; and

WHEREAS, H.R. 3669 amends the Internal Revenue Code of 1986 to:

(1) Impose an excise tax on a pension plan failing to provide notice of generally accepted investment principles, including principles of risk management and diversification;

(2) Impose an excise tax on a pension plan failing to provide notice of any transaction restriction period to each applicable individual to whom the transaction restriction period applies; and

(3) Set forth diversification requirements for plans, including requiring the provision of at least three investment options, other than employer securities, in amounts equivalent to the amounts invested in employer securities:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-first General Assembly, Second Regular Session, the Senate concurring therein, urge Congress to enact H.R. 3669, the "Employee Retirement Savings Bill of Rights" which amends the Internal Revenue Code of 1986 to empower employees to control their retirement savings accounts through new diversification rights, new disclosure requirements, and new tax incentives for retirement education; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Missouri Congressional delegation.

HOUSE CONCURRENT RESOLUTION NO. 16

An act by concurrent resolution and pursuant to Title 40, Section 187, United States Code, to request the Joint Committee on the Library of Congress to approve the replacement of a statue in the Statuary Hall of the Capitol of the United States.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

WHEREAS, 40 U.S.C. Section 187a permits a state to ask the Joint Committee on the Library of Congress for replacement of a statue it provided for display in the National Statuary Hall in the Capitol of the United States after the passage of the required display time period specified in 40 U.S.C. Section 187a; and

WHEREAS, that request must be made by a resolution adopted by the legislature of the state and approved by the Governor; and

WHEREAS, in 1895, the Missouri General Assembly authorized placement of statues of Thomas Hart Benton and Francis Preston Blair in Statuary Hall, which statues were placed there in 1899; and

WHEREAS, Francis Preston Blair was an outstanding Missourian, a member of Congress, a major general in the United States Army during the Civil War, and a candidate for Vice President of the United States; and

WHEREAS, Harry S Truman was the most important statesman Missouri ever gave the nation, an outstanding county official, United States Senator, Vice President and President of the United States who brought the Second World War to completion, led the free world at the beginning of the Cold War, and stood for fairness and opportunity for all Americans:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-first General Assembly, Second Regular Session, the Senate concurring therein, hereby request approval from the Joint Committee on the Library of Congress to replace the statue of Francis Preston Blair with a statue of Harry S Truman as one of the two statues Missouri is entitled to display in the Statuary Hall of the United States Capitol; and

BE IT FURTHER RESOLVED that the Missouri General Assembly requests the Statue of Francis Preston Blair be returned to the State of Missouri as permitted under 40 U.S.C. Section 187a(d); and

BE IT FURTHER RESOLVED that this resolution be sent to the Governor for his approval or rejection; and

BE IT FURTHER RESOLVED that upon approval by the Governor, the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for the Joint Committee on the Library of Congress in care of the chair of the committee and to each member of the Missouri Congressional delegation.

Approved July 12, 2002

HOUSE CONCURRENT RESOLUTION NO. 18

WHEREAS, recent legislative hearings have brought to light serious problems in the ability of young adults to understand and evaluate consumer credit issues, such as credit cards and payday loans; and

WHEREAS, mistakes with financial well-being made in early adulthood can imperil a young adult's credit rating and affect his or her ability to be a productive member of society; and

WHEREAS, the ability to evaluate the soundness and advisability of using particular consumer credit programs is a crucial life skill; and

WHEREAS, the Missouri assessment program communications, mathematics, and social studies assessments for middle school and high school students offer a unique opportunity to gauge the extent of young people's understanding of these issues; and

WHEREAS, the first goal of the Show-Me Standards includes elements such as evaluating information and ideas, and applying acquired information to different contexts as students, workers, citizens, and consumers; and

WHEREAS, in some disciplines, such as consumer and family sciences and business education, extensive work has already been done to chart skills such as comparing various aspects of consumer credit against not only the Show-Me Standards but also national standards and tests; and

WHEREAS, dictating the content of courses by state statute may not always be good public policy, but making known legislative priorities so that existing programs may accommodate those priorities is an obligation of the General Assembly:

NOW, THEREFORE, BE IT RESOLVED by the members of the House of Representatives of the Ninety-first General Assembly, Second Regular Session, the Senate concurring therein, that the Department of Elementary and Secondary Education should:

- 1) Impanel a group or groups of teachers to determine if consumer credit issues can be addressed in the framework of the Show-Me Standards and, if so, determine what type of questions, including the possibility of performance events, would be appropriate for inclusion in the statewide assessments, as well as addressing the optimum grade level for inclusion, whether middle or high school, or both;
- 2) If the teacher panels respond favorably to the inclusion of consumer credit questions, determine if and how the assessment instruments can be kept comparable with previous years' instruments as they are rewritten in the ordinary course of test development to incorporate consumer credit elements;
- 3) Determine what steps would be necessary to track and report statewide average performance on those elements concerning consumer credit issues and advise if it is possible or advisable;
- 4) Encourage organizations that represent individual curriculum areas, such as communications, mathematics, and social studies, to incorporate analysis of consumer credit issues where appropriate; and
- 5) Identify and publicize methods besides statewide assessments that could help students and teachers incorporate consumer credit issues in teaching and learning, including professional development opportunities; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare a properly inscribed copy of this resolution for the Commissioner of Education.

HOUSE CONCURRENT RESOLUTION NO. 20

WHEREAS, an area in eastern mid-Missouri has historically and informally been known as the "Arcadia Valley":

NOW, THEREFORE, BE IT RESOLVED by the members of the House of Representatives of the Ninety-first General Assembly, Second Regular Session, the Senate concurring therein, that the area in the State west of Highway 67, east of Highway 49, south of Highway 32, and north of Highway 72 shall be formally designated as the "Arcadia Valley".

HOUSE CONCURRENT RESOLUTION NO. 21

WHEREAS, members of the National Guard as active duty military service members serve our nation at the call of the President of the United States in time of national emergency and in homeland defense initiatives; and

WHEREAS, members of the National Guard take an oath and serve at the call of the President and the Governors in times of emergency; and

WHEREAS, retired National Guard members with a minimum of 20 years of service receive entitlements similar to those of active duty military retiree's, including monthly retirement checks, prescription medical services, and access to worldwide space-available military travel; and

WHEREAS, members of the National Guard are compensated and receive base pay and allowances funded by the United States Department of Defense based on the same compensation programs as active duty military personnel; and

WHEREAS, as a result of the extended service provided by members of the Missouri National Guard in support of the nation in times of national emergency, retired members with a minimum of 20 years of service with the National Guard should receive the same United States Department of Veterans Affairs (USDVA) entitlements as an active duty military retiree, including access to Missouri state veterans homes and veterans administration hospitals and USDVA prescription medical benefits:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-first General Assembly, Second Regular Session, the Senate concurring therein, hereby urge the United States Department of Veterans Affairs to amend their current policies and rules to provide reimbursement to the State of Missouri for National Guard member-related costs for stays in Missouri state veterans homes, and to allow National Guard veterans with a minimum of 20 years of service to participate in the per diem program and receive treatment and service at United States Department of Veterans Affairs veterans hospitals and receive prescription medical benefits in the same manner as active duty military veterans; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare a properly inscribed copy of this resolution for Anthony J. Principi, Secretary of Veterans Affairs.

HOUSE CONCURRENT RESOLUTION NO. 24

Relating to approval of a project for an agricultural research and demonstration project and related buildings and facilities for the Springfield campus of Southwest Missouri State University funded in part by revenue bonds secured by a pledge of future appropriations of the General Assembly.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

WHEREAS, Section 21.527, RSMo, requires approval of the General Assembly that certain projects to be funded by revenue bonds shall be secured by a pledge of future appropriations to be made by the General Assembly; and

WHEREAS, the General Assembly is desirous of approving a project for an agricultural research and demonstration center project and related building and facilities for the Springfield campus of Southwest Missouri State University to be funded in part by revenue bonds secured by a pledge of future appropriations to be made by the General Assembly; and

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-first General Assembly, Second Regular Session, the Senate concurring therein, hereby approve the following:

- (1) An agricultural research and demonstration center project and related building and facilities for the Springfield campus of Southwest Missouri State University;
- (2) A total estimated project cost, including furnishings and equipment, of \$6,950,000;
- (3) A maximum project cost of \$2,604,360, the State's Share, to be funded by revenue bonds secured by a pledge of future appropriations to be made by the General Assembly;
- (4) The issuance of revenue bonds in an amount sufficient to pay the State's Share of the project cost, plus debt service reserve, capitalized interests and costs of issuance, to be payable over a term not to exceed twenty years; and
- (5) The remainder of the project cost to be funded by contributions and other funds to be provided by Southwest Missouri State University; and

BE IT FURTHER RESOLVED that the members of the General Assembly state the intent of the General Assembly, during each fiscal year of the state during the term of such revenue bonds, to appropriate funds sufficient to pay the debt service on such revenue bonds; and

BE IT FURTHER RESOLVED that the members of the General Assembly authorize and direct the Office of Administration and such other state departments, offices, and agencies as the Office of Administration may deem necessary or appropriate to:

- (1) Assist the staff and advisors of Southwest Missouri State University in implementing the project and in issuing such revenue bonds for the State's Share of the project cost; and
- (2) Execute and deliver documents and certificates related to the revenue bonds consistent with the terms of this resolution; and

BE IT FURTHER RESOLVED that this resolution be sent to the Governor for his approval or rejection pursuant to the Missouri Constitution.

Approved July 12, 2002

HOUSE CONCURRENT RESOLUTION NO. 25

Relating to the creation of the Missouri Commission on the Delta Regional Authority.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

WHEREAS, the President and United States Congress have created the Delta Regional Authority; and

WHEREAS, the Delta Regional Authority would bring the resources of a Federal-State partnership to the region for economic growth and provide funding for infrastructure and economic development needed to make prosperity possible in the Delta; and

WHEREAS, the federally designated Authority covers 29 counties in the Southeastern and South Central State of Missouri; and

WHEREAS, the affected counties in Missouri desire to participate with the Delta Regional Authority in any policy development and programs for the region:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-first General Assembly, Second Regular Session, the Senate concurring therein, hereby authorize the creation of the "Missouri Commission on the Delta Region Authority"; and

BE IT FURTHER RESOLVED that the Missouri Commission on the Delta Region Authority shall make recommendations to the General Assembly and the Governor regarding the Delta Region Authority. Such recommendations may cover principles and procedures for policy development; development of a state plan; prioritization of funding with consideration to poverty, joblessness, lack of job availability, literacy rates, and level of education; and economic and infrastructure development; and

BE IT FURTHER RESOLVED that the Missouri Commission on the Delta Region Authority may accept general revenue funds and other funds as may be appropriated to it; and

BE IT FURTHER RESOLVED that the Missouri Commission on the Delta Region Authority shall be composed of:

(1) Five regional planning commission members or executive directors, one from each of the regional planning commissions serving the area, appointed by the governor;

(2) Three members of the public appointed by the governor, with one member representing the interests of agriculture, one member representing business and industry, and one member representing education;

(3) Four members of the House of Representatives, appointed by the Speaker, representing the counties in the region;

(4) Two members of the Senate, appointed by the President Pro Tem of the Senate, representing the counties in the region; and

(5) The Directors of the Departments of Economic Development, Transportation, and Agriculture; the Commissioner of Education; and the Commissioner of Higher Education as ex officio members; and

BE IT FURTHER RESOLVED that this resolution be sent to the Governor for his approval or rejection pursuant to the Missouri Constitution.

Approved July 12, 2002

SENATE CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION No. 36

WHEREAS, the Joint Interim Committee on Education Funding created by Senate Concurrent Resolution No. 26 enacted in the First Regular Session of the Ninety-first General Assembly ceased to exist on January 15, 2002; and

WHEREAS, the Joint Interim Committee on Education Funding was charged with an in-depth review of education finance in this state; and

WHEREAS, by its very nature, education funding is a complex subject that has many interlocking elements that are seldom understood in their entirety; and

WHEREAS, with the best efforts of the Joint Interim Committee on Education Funding, the foundation for further study has been created, but in-depth study will require more time; and

WHEREAS, institutional knowledge of the issues involved in education funding is dwindling, making an in-depth study even more difficult as time passes:

NOW, THEREFORE, BE IT RESOLVED by the members of the Senate of the Ninety-first General Assembly, Second Regular Session, the House of Representatives concurring therein, that the Joint Interim Committee on Education Funding be reconstituted with substantially the same membership in a timely fashion so that the in-depth study contemplated in Senate Concurrent Resolution No. 26 enacted in the First Regular Session of the Ninety-first General Assembly may continue and be completed in time to present a thoughtful study and recommendations for future action to the members of the Ninety-second General Assembly so that the constitutional requirement that designates education as the state's first priority in public policy may continue to be fulfilled.

SENATE CONCURRENT RESOLUTION No. 37

WHEREAS, cancer is a leading cause of morbidity and mortality in the State of Missouri and throughout the Nation; and

WHEREAS, cancer is disproportionately a disease of the elderly, with more than half of all cancer diagnoses occurring in persons 65 years of age or older who are thus dependent on the federal Medicare program for provision of cancer care; and

WHEREAS, since treatment with anti-cancer drugs is the cornerstone of modern cancer care, elderly cancer patients must have access to potentially life-extending drug therapy, but the Medicare program's coverage of drugs is limited to injectable drugs or oral drugs that have an injectable version; and

WHEREAS, the Nation's investment in biomedical research has begun to bear fruit with a compelling array of new oral anti-cancer drugs that are less toxic, more effective, and more cost-effective than existing therapies, but because such drugs do not have an injectable equivalent, they are not covered by Medicare; and

WHEREAS, noncoverage of these important new products leaves many Medicare beneficiaries confronting the choice of either substantial out-of-pocket personal costs or selection of more toxic, less effective treatments that are covered by the program; and

WHEREAS, Medicare's failure to cover oral anti-cancer drugs leaves at risk many beneficiaries suffering from blood-related cancers like leukemia, lymphoma, and myeloma, as well as cancers of the breast, lung, and prostate; and

WHEREAS, certain members of the United States Congress have recognized the necessity of Medicare coverage for all oral anti-cancer drugs and introduced legislation in the 107th Congress to achieve such result (H.R. 1624 and S. 913):

NOW, THEREFORE, BE IT RESOLVED that the members of the Senate of the Ninety-first General Assembly, Second Regular Session, the House of Representatives concurring therein, respectfully urge the United States Congress to adopt legislation requiring the Medicare program to cover all oral anti-cancer drugs; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the President of the United States, the Secretary of Health and Human Services, the Administrator of the Centers for Medicare and Medicaid Services, and each member of the Missouri Congressional Delegation.

**HOUSE COMMITTEE SUBSTITUTE FOR
SENATE CONCURRENT RESOLUTION NO. 41**

WHEREAS, the State of Missouri is currently facing unique rural and urban primary care workforce issues, including a significant imbalance between the primary care and specialty care workforce in our urban areas and a shortage of traditional primary health care workforce in our state's rural areas; and

WHEREAS, there exists a need for a study on access for Missourians to the health care provider market in the state and the recommendation of specific legislative or enforcement initiatives to insure ample choice for Missouri citizens and to insure affordable health care in the State of Missouri:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-First General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby establish the Joint Interim Committee on Primary Care Workplace Adequacy in Missouri; and

BE IT FURTHER RESOLVED that such Committee shall examine the rural and urban primary care workforce issues facing the State of Missouri, including those involving trauma and critical care services, examine the imbalance between primary care and specialty care in the urban areas and its effect on the cost and access to health care, examine the issue of primary care

shortage in the rural areas and its effect on the cost and access to health care in the rural areas, examine current Department of Health and Senior Services programs which support primary care training and make recommendations for its modification and enhancement as needed; and

BE IT FURTHER RESOLVED that said Committee shall be composed of five members of the Senate, to be appointed by the President Pro Tem of the Senate, and five members of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and

BE IT FURTHER RESOLVED that said committee prepare a report, together with its recommendations for any legislative action it deems necessary for submission to the General Assembly prior to the commencement of the First Regular Session of the Ninety-second General Assembly; and

BE IT FURTHER RESOLVED that Senate Research, the Committee on Legislative Research, and House Research shall provide such legal, research, clerical, technical and bill drafting services as the committee may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the actual and necessary expenses of the committee, its members and any staff personnel assigned to the committee incurred in attending meetings of the committee or any subcommittee thereof shall be paid from the Joint Contingent Fund.

SENATE CONCURRENT RESOLUTION NO. 46

WHEREAS, H.R. 3113, the TANF Reauthorization Act of 2001, was introduced in the United States House of Representatives on October 12, 2001, which would reform the Temporary Assistance for Needy Families program to make it clear that the program's principal focus is the long-term reduction of poverty rather than a short-term immediate reduction in the welfare rolls; and

WHEREAS, H.R. 3113 would also make it clear that postsecondary education is a work activity under the TANF program by providing access to postsecondary education for TANF recipients as a permissible work activity; and

WHEREAS, in the United States, education has always been a route to economic self-sufficiency and social mobility; and

WHEREAS, in the twenty-first century, at least one year of postsecondary education will become increasingly more essential for all workers; and

WHEREAS, TANF does not currently extend our nation's commitment to educational opportunity to persons living in poverty with their children, but who are ready, willing, and able to benefit from postsecondary education; and

WHEREAS, data from several studies has demonstrated that the additional earning capacity that a postsecondary education provides can make the difference between economic self-sufficiency and continued poverty for many TANF recipients; and

WHEREAS, among families headed by African American, Latino, and Caucasian women, the poverty rate declines from fifty-one, forty-one, and twenty-two percent to twenty-one,

eighteen and one-half, and thirteen percent, respectively, with at least one year of postsecondary education; and

WHEREAS, further data has found that postsecondary education not only increases incomes, it also improves self-esteem, increases children's education ambitions, including aspiring to enter postsecondary education themselves, and has a dramatic impact on quality of life; and

WHEREAS, now more than ever TANF recipients need postsecondary education to obtain the knowledge and skills required to compete for jobs and enable them to lift themselves and their children out of poverty in the long-term; and

WHEREAS, without some postsecondary education, most women who leave welfare for employment will earn wages that place them far below the federal poverty level, even after five years of employment; and

WHEREAS, allowing TANF recipients to attend postsecondary education, even for a short time, will improve their earning potential significantly, with the average person who attends a community college, even without graduating, earning approximately ten percent more than those persons who do not attend postsecondary education at all; and

WHEREAS, women who receive TANF assistance clearly appreciate the importance and role of postsecondary education in moving them out of poverty to long-term economic self-sufficiency; and

WHEREAS, as of November 1999, at least nineteen states had considered or enacted strategies to support recipient's efforts to achieve long-term economic self-sufficiency through the pursuit of postsecondary education:

NOW, THEREFORE, BE IT RESOLVED that the members of the Senate of the Ninety-first General Assembly, Second Regular Session, the House of Representatives concurring therein, support H.R. 3113, the TANF Reauthorization Act of 2001; and

BE IT FURTHER RESOLVED that the General Assembly urges Missouri's Congressional delegation to support the passage of H.R. 3113, the TANF Reauthorization Act of 2001; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and each member of Missouri's Congressional delegation.

**SENATE COMMITTEE SUBSTITUTE FOR
SENATE CONCURRENT RESOLUTION NO. 47**

Relating to the Poultry Industry Committee.

WHEREAS, the poultry industry is a vital, profitable and important industry in this state; and

WHEREAS, the General Assembly wishes to maintain and enhance the positive economic impacts while making every attempt to eliminate negative aspects of the industry; and

WHEREAS, the poultry industry produces waste products which have significantly impacted the environment of the state; and

WHEREAS, there exists a need for a study of the economic and environmental impact of the poultry industry in the state, especially the impacts this industry has on sensitive environmental areas:

NOW, THEREFORE BE IT RESOLVED, that the members of the Missouri Senate, Ninety-First General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby authorize the creation of a "Poultry Industry Committee" which shall review and evaluate both the economic impact of the poultry industry, waste disposal issues and environmental impacts of this industry, and make recommendations on further action or legislative remedies, if any, to be taken as necessary; and

BE IT FURTHER RESOLVED that such Committee shall be composed of twenty-seven members, one member to be a member of the Senate to be appointed by the President Pro Tem of the Senate, one member to be a member of the House of Representatives to be appointed by the Speaker of the House, two county commissioners or their designees, a representative from the Food and Agricultural Policy Research Institute (FAPRI), a representative of the Environmental Protection Agency (EPA), a representative of the Department of Natural Resources, a representative of the United States Department of Agriculture, a representative of the Natural Resources Conservation Services (NRCS), a representative of the university extension system, a representative of the poultry federation, a representative of the Missouri Farmer's Association, a representative of the Farm Bureau, a representative of the Department of Conservation, a representative of the University of Missouri Department of Agriculture, Food, and Natural Resources, a representative of the Southwest Missouri State University Department of Agriculture, a representative of the University of Missouri Commercial Agriculture Program, a member appointed by the Resource Conservation & Development Council, a representative of the Department of Economic Development, a representative of the Department of Agriculture, a representative of the Clean Water Commission, two active poultry farmers, two poultry industry contractors or processors, a person active in the processing/value-added portion of poultry waste, one person from Missouri Farm Credit Services. Each member of the Committee shall serve until December 31, 2003; and

BE IT FURTHER RESOLVED that the Committee may conduct its business by various means but shall meet no less than twice each year as a full Committee; and

BE IT FURTHER RESOLVED that all state agencies shall cooperate with the Committee in carrying out its duties, including allowing access to closed records, provided that the Committee shall not disclose any identifying information contained in such records closed pursuant to statute or general order and any such information in the custody of the Committee shall not be discoverable to the same extent as when in the custody of the parent agency; and

BE IT FURTHER RESOLVED that all members shall serve without compensation; and

BE IT FURTHER RESOLVED that the Office of Administration shall provide funding, administrative support, and staff for the effective operation of the Committee; and

BE IT FURTHER RESOLVED that the Committee shall study problems and solutions, collect information and provide recommendations in a report to the General Assembly before December 31, 2002;

BE IT FURTHER RESOLVED that the Committee shall submit its final report to the General Assembly no later than December 31, 2003; and

BE IT FURTHER RESOLVED that the Poultry Industry Committee shall terminate December 31, 2003; and

BE IT FURTHER RESOLVED that this resolution be sent to the Governor for his approval or rejection pursuant to the Missouri Constitution.

Approved July 12, 2002

SENATE CONCURRENT RESOLUTION NO. 49

BE IT RESOLVED by the members of the Senate of the Ninety-first General Assembly, Second Regular Session, the House of Representatives concurring therein, that the Missouri Committee on Legislative Research shall prepare and cause to be collated, indexed, printed, and bound all acts and resolutions of the Ninety-first General Assembly, Second Regular Session, and shall examine the printed copies and compare them with and correct the same by the original rolls, together with an attestation under the hand of the Revisor of Statutes that he has compared the same with the original rolls in his office and has corrected the same thereby; and

BE IT RESOLVED that the size and quality of the paper and binding shall be substantially the same as used in prior session laws, and the size and style of type shall be determined by the Revisor of Statutes; and

BE IT RESOLVED that the Joint Committee on Legislative Research is authorized to print and bind copies of the acts and resolutions of the Ninety-first General Assembly, Second Regular Session, with appropriate indexing; and

BE IT FURTHER RESOLVED that the Revisor of Statutes is authorized to determine the number of copies to be printed.

SENATE CONCURRENT RESOLUTION NO. 54

WHEREAS, American women of every culture, class and ethnic background have made historic contributions to the growth and strength of our Nation in countless recorded and unrecorded ways; and

WHEREAS, American women have played and continue to play a critical economic, cultural and social role in every sphere of the life of the Nation by constituting a significant portion of the labor force working inside and outside the home; and

WHEREAS, American women have played a unique role throughout the history of the Nation by providing the majority of the volunteer labor force in our Nation; and

WHEREAS, American women were particularly important in the establishment of early charitable, philanthropic and cultural institutions in our Nation; and

WHEREAS, American women of every culture, class and ethnic background served as early leaders in the forefront of every major progressive social change movement; and

WHEREAS, American women have been leaders, not only in securing their own rights of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor movement, the civil rights movement, and other movements, especially the peace movement, which create a more fair and just society for all; and

WHEREAS, despite these contributions, the role of American women in history has been consistently overlooked and undervalued, in the literature, teaching and study of American history:

NOW, THEREFORE, BE IT RESOLVED that the members of the Senate of the Ninety-first General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby designate the month of March as "Women's History Month" and urge the Governor to issue a proclamation calling upon the people of the State of Missouri to observe this month with appropriate programs, ceremonies and activities; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for the Governor and each member of Missouri's Congressional delegation.

**SENATE COMMITTEE SUBSTITUTE FOR
SENATE CONCURRENT RESOLUTION No. 57**

WHEREAS, sustained investment in electric, natural gas, water sewer and heating utility infrastructure is vital to the economic vitality and well-being of the State of Missouri; and

WHEREAS, Missouri electric, natural gas, water sewer and heating utility companies compete with utility companies in other states for the capital necessary to sustain investment in utility infrastructure in Missouri; and

WHEREAS, Missouri electric, natural gas, water sewer and heating utility companies must achieve reasonable rates of return as compared to the rates of return achieved by utility companies in other states to ensure sustained investment in utility infrastructure in Missouri; and

WHEREAS, the utility regulatory process in Missouri, as it applies to electric, natural gas, water sewer and heating corporations, is governed primarily by Chapter 393, RSMo, which is largely unchanged since original enactment in 1913; and

WHEREAS, rates of return must not be set in such a way as to expose Missouri consumers and workers to the dangers of unaffordable, unreliable, unstably priced service in the name of encouraging investment; and

WHEREAS, the potential for the deregulation of utilities in Missouri has received substantial legislative study in recent years, while the ongoing utility regulatory process and procedure has not enjoyed broad legislative evaluation; and

WHEREAS, there is an increasing trend among energy and utility companies toward proliferation of subsidiary corporations, complex relationships and the movement of assets among these subsidiaries, the increasing reliance on business strategies which seek to separate the production of energy and the provision of service from speculation in energy as an abstract commodity; and

WHEREAS, this trend has complicated the regulatory task in Missouri in a variety of ways; and

WHEREAS, this trend calls for more effective public oversight of an increasingly complex energy market so as to prevent the harm to consumers, shareholders and workers that can result from the financial instability and lack of accountability; and

WHEREAS, the utility regulatory process could benefit from being evaluated at this time so as to ensure the ability of regulatory process to ensure reliable, affordable and stably priced utility service and promote the interests of fairness and balance among all constituencies, including consumers, workers and shareholders of regulated utility companies; and

WHEREAS, the utility regulatory process must be periodically evaluated so as to promote the interests of fairness and balance among all constituencies, including consumers and shareholders of regulated utility companies, by addressing policy and practice advances in areas including , but not limited to, non-traditional regulatory rate plans, performance-based regulatory rate plans, incentive regulatory rate plans, capital recovery schedules, consistency of utility regulatory policy with generally accepted accounting principles, consistency of utility regulatory policy with financial accounting standards, consistency of utility regulatory policy with generally accepted engineering principles, communication between and among participants in the regulatory process, time schedules for the initiation and conclusion of proceedings before utility regulatory agencies, the role, function and needs of the Public Service Commission, the role, function and needs of the Office of Public Counsel and the overall structure and cost of governmental utility regulatory agencies and the utility regulatory process:

NOW, THEREFORE, BE IT RESOLVED that the members of the Senate of the Ninety-first General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby establish the Joint Legislative Committee on Utility Regulation and Infrastructure Investment; and

BE IT FURTHER RESOLVED that said Committee be composed of five members of the Senate, to be appointed by the President Pro Tem and five members of the House of Representatives to be appointed by the Speaker of the House and that said committee be authorized to function throughout the entirety of the Ninety-second General Assembly; and

BE IT FURTHER RESOLVED that said Committee conduct in-depth studies and make appropriate recommendations concerning: how the utility regulatory process and the results thereof in Missouri in regard to electric, natural gas, water sewer and heating utility companies compare to the utility regulatory process and the results thereof in other states; and how the utility regulatory process in Missouri in regard to electric, natural gas, water sewer and heating utility companies can, or should, be modernized to be more efficient and effective, ensure sustained

investment in utility infrastructure and promote the interests of fairness and balance among all constituencies, including consumers and shareholders of regulated utility companies; and

BE IT FURTHER RESOLVED that said Committee present a final report, together with its recommendations for any legislative action it deems necessary for submission to the General Assembly prior to the commencement of the First Regular Session of the Ninety-third General Assembly; and

BE IT FURTHER RESOLVED that said Committee may solicit any input and information necessary to fulfill its obligations from the Missouri Public Service Commission, the Department of Economic Development, the Office of Public Counsel, political subdivisions of this state, energy utilities, water utilities, heating corporations and representatives of energy and water customer groups; and

BE IT FURTHER RESOLVED that House Research, the Committee on Legislative Research and Senate Research shall provide such legal, research, clerical, technical and bill drafting services as the committee may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the actual and necessary expenses of the Committee, its members and any staff personnel assigned to the Committee incurred in attending meetings of the Committee or any subcommittee thereof shall be paid from the Joint Contingent Fund.

SENATE CONCURRENT RESOLUTION No. 58

An act by concurrent resolution and pursuant to Article IV, Section 8, Missouri Constitution, to disapprove Rule 20 CSR 500-6.700 and direct the Department of Insurance to promulgate an emergency rule and a proposed rule as required by Section 287.135, RSMo.

WHEREAS, in 1993, the General Assembly enacted Senate Bill No. 251 containing the provision now codified at Section 287.135, RSMo, which requires the Department of Insurance to promulgate rules to determine the criteria by which a workers' compensation insurer may reimburse fees charged by a managed care organization ("MCO"); and

WHEREAS, The Department of Insurance promulgated Rule 20 CSR 500-6.700 which would become effective thirty days after publication in the Code of State Regulations; and

WHEREAS, the Department of Insurance has filed proposed rulemakings on at least 7 occasions but have failed to finalize such proposed rulemakings with the filing of an order of rulemaking with the Joint Committee on Administrative Rules and the Secretary of State; and

WHEREAS, the Joint Committee on Administrative Rules has held at least two hearings on previous rules proposed by the Department; and

WHEREAS, nearly ten years have passed since the Department of Insurance was directed to promulgate rules to determine the criteria by which workers' compensation insurers may reimburse fees charged by managed care organizations; and

WHEREAS, numerous managed care organizations were organized for the purpose of providing services in workers' compensation matters; and

WHEREAS, workers' compensation insurers have denied claims for payment from managed care organizations due to the absence of the rule required pursuant to Section 287.135, RSMo; and

WHEREAS, numerous managed care organizations have suffered financial losses due to their denied claims for services; and

WHEREAS, the Joint Committee on Administrative Rules held a hearing on March 7, 2002, and by a unanimous vote disapproved Rule 20 CSR 500-6.700 and recommends that the General Assembly act to disapprove and suspend Rule 20 CSR 500-6.700; and

WHEREAS, the Joint Committee on Administrative Rules directed the Department of Insurance to promulgate an emergency rule and a proposed rule with a sunset of December 31, 2002, which would provide a mechanism to pay managed care organizations, including those whose claims have been denied since the passage of Senate Bill No. 251 in 1993, based on the absence of a rule as required pursuant to Section 287.135, RSMo; and

WHEREAS, the Department of Insurance agreed to abide by the directions of the Joint Committee on Administrative Rules relating to the promulgation of an emergency and proposed rule; and

WHEREAS, the Department of Insurance to date has failed and refused to abide by the directions of the Joint Committee on Administrative Rules relating to the promulgation of an emergency and proposed rule:

NOW, THEREFORE, BE IT RESOLVED, that the members of the Missouri Senate, Ninety-first General Assembly, Second Regular Session, the House of Representatives concurring therein, upon concurrence of a majority of the members of the Senate and a majority of the members of the House of Representatives, hereby disapprove proposed Rule 20 CSR 500-6.700; and

BE IT FURTHER RESOLVED, that the General Assembly hereby directs the Department of Insurance to promulgate an emergency rule and a proposed rule with a sunset of December 31, 2002, which would provide a mechanism to pay managed care organizations, including those whose claims have been denied since the passage of Senate Bill No. 251 in 1993, based on the absence of a rule as required pursuant to Section 287.135, RSMo; and

BE IT FURTHER RESOLVED that a copy of the foregoing be submitted to the Secretary of State so that the Secretary of State may publish in the Missouri Register, as soon as practicable, notice of the revocation upon this resolution having been signed by the Governor or having been approved by two-thirds of each house of the Ninety-first General Assembly, Second Regular Session, after veto by the Governor as provided in Article III, Sections 31 and 32, and Article IV, Section 8 of the Missouri Constitution; and

BE IT FURTHER RESOLVED that a properly inscribed copy be presented to the Governor in accordance with Article IV, Section 8 of the Missouri Constitution.

Approved July 12, 2002

SENATE CONCURRENT RESOLUTION NO. 65

WHEREAS, the September 11, 2001, terrorist attacks have had a substantial impact on the American economy; and

WHEREAS, insurers estimate that their losses from the attacks could reach \$70 billion; and

WHEREAS, insurance coverage on the World Trade Center and the businesses in and around the Trade Center were multi-layered, and will affect insurers of all kinds, including: property-casualty, liability, workers' compensation, business interruption, life, health and reinsurance; and

WHEREAS, insurers are concerned that they cannot adequately or accurately price insurance coverage for future catastrophes resulting from terrorism; and

WHEREAS, reinsurers are already notifying their customers that they will no longer cover terrorism risk, and primary carriers are notifying state insurance regulators that they intend to seek exclusions of terrorism coverage in their contracts with policyholders; and

WHEREAS, without adequate insurance coverage, banks may be unwilling to extend loans for commercial transactions, such as mortgages, construction projects and other capital-intensive programs; and

WHEREAS, the inability of the insurance industry to cover losses from future terrorist activities may require action by the federal government; and

WHEREAS, a federal backstop would assure an available and affordable insurance market America's consumers and businesses in these challenging times; and

WHEREAS, a federal backstop program would help to eliminate market constriction and prohibitively high prices, would facility insurance transactions necessary for commerce, and would assure the broad-based ability of families and businesses to recover from future incidences of terrorism;

WHEREAS, without a backstop, a limited availability of insurance against terrorism would have a severe adverse effect on our country's economy as financiers would be reluctant to lend, businesses would be reluctant to invest, and consumers would be unable to afford insurance:

NOW, THEREFORE, BE IT RESOLVED that the members of the Senate of the Ninety-first General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby urge the members of Congress to provide for a limited and temporary backstop for insurance against terrorism; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution for each member of Missouri's Congressional Delegation.

SENATE CONCURRENT RESOLUTION NO. 73

WHEREAS, current studies indicate that children left at home alone and unsupervised have lower academic test scores, have higher absentee rates at school, exhibit higher levels of fear, stress, nightmares, loneliness, and boredom, are 1.7 times more likely to use alcohol, and are 1.6 times more likely to smoke cigarettes; and

WHEREAS, recent data shows that violent juvenile crime rates soar and children are most likely to be victims of a violent crime committed by a nonfamily member between the hours of 3 p.m. and 8 p.m., the hours immediately after school; and

WHEREAS, according to the National Center for Juvenile Justice, children are at greater risk of being involved in crime, substance abuse, and teenage pregnancy in the hours after school, especially between the hours of 3 p.m. and 4 p.m.; and

WHEREAS, the most common activity for children after school is watching television, resulting in an average 23 hours of television watching per week; and

WHEREAS, the parents of more than 800,000 Missouri school-age children work outside the home; and

WHEREAS, according to the estimates of the Urban Institute of the United States Census Bureau, at least 7 million and as many as 15 million "latchkey children" return to an empty house on any given afternoon; and

WHEREAS, in the United States, families worry about their children being unsafe and having too much idle, unsupervised time; and

WHEREAS, the United States Departments of Education and Justice report that children in quality after-school programs have better academic performance, school attendance, behavior, and greater expectations for the future; and

WHEREAS, children who attend high quality after-school programs have better peer relations, emotional adjustment, conflict resolution skills, grades, and conduct in school compared to their peers who are not in after-school programs; and

WHEREAS, children who attend after-school programs spend more time in learning opportunities, academic activities, and enrichment activities, and spend less time watching television than their peers; and

WHEREAS, children who attend after-school programs miss fewer days of school, have better homework completion, better school behavior, and higher test scores; and

WHEREAS, the United States Congress has recognized the beneficial impact of after-school programs to our youth, and has increased the funding of after-school programs administered by the Missouri Department of Elementary and Secondary Education; and

WHEREAS, 92% of all Americans believe there should be organized activities for all youth during after-school hours; and

WHEREAS, it is estimated that less than 25% of all school-age children attend any after-school program, leaving 75% of our youth without a safe, supportive, and enriching environment during the unsupervised hours after the formal school day ends:

NOW, THEREFORE, BE IT RESOLVED by the members of the Senate of the Ninety-first General Assembly, Second Regular Session, the House of Representatives concurring therein, that a Joint Interim Committee on After-school Programs be created, to be comprised of three members of the Senate, appointed by the President Pro Tem of the Senate and the Senate Minority Floor Leader and three members of the House of Representatives, appointed by the Speaker of the House of Representatives and the House Minority Floor Leader; and

BE IT FURTHER RESOLVED that the committee make a comprehensive analysis of the quantity and quality of Missouri after-school programs, including the solicitation of information from appropriate state agencies, public schools, youth development organizations, law enforcement agencies and juvenile officers, youth development and education experts, and the public (including youth) regarding the status of after-school programs; and

BE IT FURTHER RESOLVED that the committee, in consultation with the Departments of Elementary and Secondary Education and Social Services, make recommendations for an efficient and effective development plan to provide the opportunity for every Missouri school-age child to access quality after-school programs and design a system to train, mentor, and support after-school programs, and thereby guarantee their sustainability; and

BE IT FURTHER RESOLVED that the committee be authorized to hold hearings as it deems advisable, and that the staffs of Senate Research, House Research, and the Committee on Legislative Research provide such legal, research, clerical, technical, and bill drafting services requested by the committee; and

BE IT FURTHER RESOLVED that the General Assembly endorses all of state government to enthusiastically encourage our citizens to engage in innovative after-school programs and activities that ensure that all Missouri school-age children are not only safe, but also productive when the school day ends; and

BE IT FURTHER RESOLVED that the committee report its recommendations and findings to the General Assembly by January 1, 2003, and the authority of such committee shall terminate on December 31, 2002, unless reauthorized.

SENATE CONCURRENT RESOLUTION No. 74

WHEREAS, the rugged and scenic landscape of Roaring River State Park is a landmark of Barry County and southwest Missouri; and

WHEREAS, Roaring River State Park provides hours of enjoyment for its visitors who partake in its fishing, hiking and camping opportunities; and

WHEREAS, the Inn and Conference Center at Roaring River State Park is the signature building in the Park; and

WHEREAS, Emory Melton was a state Senator representing Barry County and the area encompassing the Roaring River State Park for many years; and

WHEREAS, former state Senator Emory Melton was instrumental in furthering the development and enjoyment of the Park; and

WHEREAS, without Senator Melton's efforts, the Park would not be the tourist attraction that it is today; and

WHEREAS, Senator Melton deserves permanent recognition of his work on behalf of the Park:

NOW, THEREFORE, BE IT RESOLVED that the members of the Senate of the Ninety-first General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby designate that the Inn and Conference Center at Roaring River State Park located in Barry County shall hereinafter be known as the "Emory Melton Inn and Conference Center"; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for the Governor and the Director of the Department of Natural Resources.

Approved May 29, 2002

TABLE OF SPONSORS FOR 2002 LEGISLATION

BILL NUMBER	SPONSOR(S) OF INTRODUCED BILL	BILL HANDLER(S) (OPPOSITE CHAMBER)
HB 1032	Portwood, Dr. Charles R.	Steelman, Sarah G.
HB 1037	Monaco, Ralph A. Hosmer, Craig	Klarich, David
HB 1041	Myers, Peter	Foster, Bill I. Childers, Doyle
HB 1075	Nordwald, Charles	House, Ted
HB 1078	Whorton, James Copenhaver, Nancy	Mathewson, James L.
HB 1086	Harlan, Tim	House, Ted
HB 1093	Relford, Randall H. Seigfreid, James	Mathewson, James L.
HB 1101	Green, Timothy P.	Russell, John T.
HB 1102	Green, Timothy P.	Russell, John T.
HB 1103	Green, Timothy P.	Russell, John T.
HB 1104	Green, Timothy P.	Russell, John T.
HB 1105	Green, Timothy P.	Russell, John T.
HB 1106	Green, Timothy P.	Russell, John T.
HB 1107	Green, Timothy P.	Russell, John T.
HB 1108	Green, Timothy P.	Russell, John T.
HB 1109	Green, Timothy P.	Russell, John T.
HB 1110	Green, Timothy P.	Russell, John T.
HB 1111	Green, Timothy P.	Russell, John T.
HB 1112	Green, Timothy P.	Russell, John T.
HB 1115	Green, Timothy P.	Russell, John T.

BILL NUMBER	SPONSOR(S) OF INTRODUCED BILL	BILL HANDLER(S) (OPPOSITE CHAMBER)
HB 1120	Green, Timothy P.	Russell, John T.
HB 1120	Green, Timothy P.	Russell, John T.
HB 1121	Green, Timothy P.	Russell, John T.
HB 1141	Naeger, Patrick A.	Yeckel, Anita
HB 1148	Ross, Carson	Kenney, Bill
HB 1150	Bray, Joan	Gibbons, Michael R.
HB 1151	Smith, Philip	Caskey, Harold
HB 1196	Barnett, Rex Ostmann, Cindy	Klindt, David Westfall, Morris
HB 1205	Seigfreid, James Relford, Randall H.	Mathewson, James L.
HB 1265	Gratz, William (Bill) Vogel, Carl	Childers, Doyle
HB 1270	Gratz, William (Bill)	Westfall, Morris
HB 1342	Farnen, Ted	Yeckel, Anita
HB 1348	Myers, Peter Jetton, Rod	Foster, Bill I.
HB 1375	Luetkenhaus, Bill	Yeckel, Anita
HB 1381	Luetkenhaus, Bill	Rohrbach, Larry M.
HB 1386	O'Connor, Patrick	Yeckel, Anita
HB 1398	Ward, Dan Selby, Harold R.	Yeckel, Anita
HB 1399	Ransdall, Bill L. Kreider, Jim	Yeckel, Anita
HB 1402	Burton, Gary L. Mays, Carol Jean	Steelman, Sarah G.
HB 1403	Green, Timothy P. St. Onge, Neal C.	Foster, Bill I.
HB 1406	Barnett, Rex	Klindt, David

BILL NUMBER	SPONSOR(S) OF INTRODUCED BILL	BILL HANDLER(S) (OPPOSITE CHAMBER)
HB 1443	Barry, Joan Hanaway, Catherine L	Gibbons, Michael R.
HB 1455	O'Toole, James P.	Gross, Charles
HB 1468	Ward, Dan	Loudon, John
HB 1473	Green, Tom Whorton, James	House, Ted
HB 1477	Farnen, Ted	Klindt, David
HB 1492	Seigfreid, James	Mathewson, James L.
HB 1495	Seigfreid, James	Mathewson, James L.
HB 1502	Luetkenhaus, Bill Ward, Dan	Rohrbach, Larry M.
HB 1508	Koller, Don	Westfall, Morris
HB 1515	Burton, Gary L.	Bentley, Roseann
HB 1518	Luetkenhaus, Bill	Rohrbach, Larry M.
HB 1519	Boucher, Bill Kreider, Jim	Yeckel, Anita
HB 1532	Hoppe, Thomas	Gross, Charles
HB 1537	Clayton, Robert	Klarich, David
HB 1548	Barry, Joan	Sims, Betty
HB 1568	Luetkenhaus, Bill	Rohrbach, Larry M.
HB 1580	Barnett, Rex	Klindt, David
HB 1600	Treadway, Joseph L.	Schneider, John D. Mathewson, James L.
HB 1634	Hoppe, Thomas	Wiggins, Harry
HB 1635	Hoppe, Thomas	Wiggins, Harry
HB 1636	Hoppe, Thomas	Wiggins, Harry
HB 1659	Kelly, Glenda Williams, Deleta	Dougherty, Patrick

BILL NUMBER	SPONSOR(S) OF INTRODUCED BILL	BILL HANDLER(S) (OPPOSITE CHAMBER)
HB 1668	Holt, Bruce W. Luetkenhaus, Bill	House, Ted
HB 1674	O'Toole, James P. Dempsey, Tom	Stoll, Steve
HB 1711	Graham, Chuck Kreider, Jim	Jacob, Kenneth B.
HB 1715	Moore, Danielle Graham, Chuck	Klarich, David
HB 1748	Ransdall, Bill L. Mayer, Robert	Steelman, Sarah G.
HB 1756	Reid, Michael J Hosmer, Craig	Klarich, David
HB 1768	Hosmer, Craig Smith, Philip	Klarich, David
HB 1773	Shelton, O.L. Carnahan, Russ	Coleman, Maida
HB 1776	Harlan, Tim	Kennedy, Harry
HB 1781	Green, Timothy P. Baker, Lana Ladd	Russell, John T.
HB 1783	Lowe, Jenee' M. Moore, Danielle	Rohrbach, Larry M.
HB 1789	Ross, Carson O'Connor, Patrick	Klarich, David
HB 1811	Gambaro, Derio L.	Dougherty, Patrick
HB 1812	Wilson, Vicky Riback	Sims, Betty
HB 1814	Monaco, Ralph A. Johnson, Rick	Klarich, David
HB 1822	Walton, Juanita Head Green, Tom	Yeckel, Anita
HB 1838	Hosmer, Craig	Caskey, Harold
HB 1839	Seigfreid, James	Mathewson, James L.
HB 1840	Seigfreid, James	Mathewson, James L.
HB 1846	Scott, Delbert	Rohrbach, Larry M.

BILL NUMBER	SPONSOR(S) OF INTRODUCED BILL	BILL HANDLER(S) (OPPOSITE CHAMBER)
HB 1849	Barnitz, Frank A. Overschmidt, Francis S.	Steelman, Sarah G.
HB 1861	Burcham, Tom	Staples, Danny
HB 1888	Barnitz, Frank A. Legan, Kenneth	Klarich, David
HB 1890	Hilgemann, Robert Cooper, Shannon	Gross, Charles
HB 1895	Carnahan, Russ Monaco, Ralph A.	Jacob, Kenneth B.
HB 1921	Green, Timothy P.	Klarich, David
HB 1926	Fraser, Barbara Kreider, Jim	Quick, Edward E.
HB 1937	Barry, Joan	Singleton, Marvin
HB 1953	Van Zandt, Tim Cierpiot, Connie J.	Singleton, Marvin
HB 1964	Gambaro, Derio L.	Yeckel, Anita
HB 1973	Bowman, John L.	Schneider, John D.
HB 1982	Richardson, Mark L.	Foster, Bill I.
HB 1988	Kelly, Van Kreider, Jim	Westfall, Morris
HB 2001	Hegeman, Daniel J. Shields, Charles W.	Foster, Bill I.
HB 2002	Farnen, Ted Naeger, Patrick A.	Caskey, Harold
HB 2008	O'Connor, Patrick	Kenney, Bill
HB 2009	O'Connor, Patrick	Kenney, Bill
HB 2018	Bartle, Matt Franklin, Richard	Kenney, Bill
HB 2022	Richardson, Mark L.	Stoll, Steve
HB 2023	Franklin, Richard	Foster, Bill I.
HB 2039	Kreider, Jim	Stoll, Steve

BILL NUMBER	SPONSOR(S) OF INTRODUCED BILL	BILL HANDLER(S) (OPPOSITE CHAMBER)
HB 2047	Ransdall, Bill L. Reynolds, David L.	Mathewson, James L.
HB 2062	Hosmer, Craig Britt, Phillip M.	Westfall, Morris
HB 2064	Walton, Juanita Head Villa, Thomas	Goode, P. Wayne
HB 2078	Clayton, Robert	Rohrbach, Larry M.
HB 2080	Britt, Phillip M. Richardson, Mark L.	Foster, Bill I.
HB 2117	Boucher, Bill	Caskey, Harold
HB 2120	Ridgeway, Luann Hosmer, Craig	Gibbons, Michael R.
HB 2130	Boykins, Amber (Holly) Gambaro, Derio L.	Coleman, Maida
HB 2137	Crump, Wayne F.	Caskey, Harold
HJR0047	Willoughby, Philip Relford, Randall H.	Gibbons, Michael R.
SB 0639	Caskey, Harold	Williams, Deleta
SB 0644	Mathewson, James L.	Davis, D.J.
SB 0650	Singleton, Marvin	Monaco, Ralph A.
SB 0656	Rohrbach, Larry M.	Luetkenhaus, Bill
SB 0675	Yeckel, Anita	Seigfreid, James
SB 0695	Dougherty, Patrick	Barry, Joan
SB 0701	Wiggins, Harry	Lowe, Jenee' M.
SB 0708	Mathewson, James L.	Lawson, Maurice
SB 0712	Singleton, Marvin	O'Toole, James P.
SB 0714	Singleton, Marvin	Barry, Joan
SB 0718	House, Ted	Berkowitz, Sam
SB 0720	Westfall, Morris	Hoppe, Thomas

BILL NUMBER	SPONSOR(S) OF INTRODUCED BILL	BILL HANDLER(S) (OPPOSITE CHAMBER)
SB 0722	Bentley, Roseann	Relford, Randall H.
SB 0726	Childers, Doyle	Gaskill, Sam
SB 0727	Yeckel, Anita	O'Connor, Patrick
SB 0729	Yeckel, Anita	Luetkenhaus, Bill
SB 0737	Cauthorn, John	Berkowitz, Sam
SB 0742	Caskey, Harold	Monaco, Ralph A.
SB 0745	Russell, John T.	Kelly, Van
SB 0749	Goode, P. Wayne	Monaco, Ralph A.
SB 0758	Bentley, Roseann	Hosmer, Craig
SB 0776	House, Ted	Harlan, Tim
SB 0786	Goode, P. Wayne	Campbell, Marsha
SB 0795	Schneider, John D.	Treadway, Joseph L.
SB 0798	Westfall, Morris	Ross, Carson
SB 0804	DePasco, Ronnie	Sanders Brooks
SB 0810	Dougherty, Patrick	Baker, Lana Ladd
SB 0812	Russell, John T.	Holand, Roy
SB 0831	Loudon, John	Gambaro, Derio L.
SB 0834	Sims, Betty	Hoppe, Thomas
SB 0840	Gross, Charles	Hosmer, Craig
SB 0856	Russell, John T.	Rizzo, Henry
SB 0859	Russell, John T.	Ransdall, Bill L.
SB 0865	Foster, Bill I.	Myers, Peter
SB 0874	Bentley, Roseann	Franklin, Richard
SB 0884	DePasco, Ronnie	Liese, Chris
SB 0891	Kenney, Bill	Rizzo, Henry

BILL NUMBER	SPONSOR(S) OF INTRODUCED BILL	BILL HANDLER(S) (OPPOSITE CHAMBER)
SB 0892	Kenney, Bill	O'Connor, Patrick
SB 0895	Yeckel, Anita Gross, Charles	Liese, Chris
SB 0915	Westfall, Morris	Koller, Don
SB 0918	Klarich, David	Linton, William C.
SB 0923	Sims, Betty	Barry, Joan
SB 0932	Klarich, David	Smith, Philip
SB 0941	DePasco, Ronnie	Mays, Carol Jean
SB 0947	Klindt, David Stoll, Steve	Famen, Ted
SB 0950	Gibbons, Michael R. Klarich, David	Griesheimer, John
SB 0957	Loudon, John	Reid, Michael J.
SB 0959	Kenney, Bill Kinder, Peter	Rizzo, Henry
SB 0960	Kenney, Bill	O'Connor, Patrick
SB 0961	Wiggins, Harry	Curls, Melba
SB 0962	Wiggins, Harry	Jolly, Cathy
SB 0966	Kennedy, Harry	Gambaro, Derio L.
SB 0967	Kennedy, Harry	Hagan-Harrell, Mary
SB 0969	Westfall, Morris Bentley, Roseann	Smith, Philip
SB 0974	Childers, Doyle Westfall, Morris	Koller, Don
SB 0976	Steelman, Sarah G.	Portwood, Dr. Charles R.
SB 0980	Singleton, Marvin Schneider, John D.	Hunter, Steve
SB 0984	Steelman, Sarah G.	Merideth III, Denny J.
SB 0992	Johnson, Sidney	Rizzo, Henry

BILL NUMBER	SPONSOR(S) OF INTRODUCED BILL	BILL HANDLER(S) (OPPOSITE CHAMBER)
SB 0997	Quick, Edward E.	Willoughby, Philip
SB 1001	Mathewson, James L.	Crump, Wayne F.
SB 1009	Rohrbach, Larry M.	Luetkenhaus, Bill
SB 1011	Caskey, Harold	Monaco, Ralph A.
SB 1012	Caskey, Harold	Lawson, Maurice
SB 1015	Foster, Bill I. Mathewson, James L.	Relford, Randall H.
SB 1024	Bentley, Roseann	Holand, Roy
SB 1026	Kenney, Bill	Barry, Joan
SB 1028	Russell, John T.	Luetkemeyer, Blaine
SB 1039	DePasco, Ronnie	Curls, Melba
SB 1041	Russell, John T.	Gratz, William (Bill)
SB 1048	Kenney, Bill	Reinhart, Annie
SB 1070	Gibbons, Michael R.	Hosmer, Craig
SB 1071	Klindt, David	Lawson, Maurice
SB 1078	Kennedy, Harry	Hoppe, Thomas
SB 1086	DePasco, Ronnie	Hoppe, Thomas
SB 1093	Loudon, John	Hilgemann, Robert
SB 1094	Russell, John T.	Green, Timothy P.
SB 1102	Westfall, Morris	Hosmer, Craig
SB 1107	Childers, Doyle	Hoppe, Thomas
SB 1109	Yeckel, Anita	Portwood, Dr. Charles R.
SB 1113	Caskey, Harold	Farnen, Ted
SB 1119	Johnson, Sidney	Kelly, Glenda
SB 1124	Dougherty, Patrick	Gambaro, Derio L.
SB 1132	Kennedy, Harry	Daus, Mike

BILL NUMBER	SPONSOR(S) OF INTRODUCED BILL	BILL HANDLER(S) (OPPOSITE CHAMBER)
SB 1143	Jacob, Kenneth B.	Monaco, Ralph A.
SB 1151	Kinder, Peter	Myers, Peter
SB 1163	Steelman, Sarah G.	Ransdall, Bill L.
SB 1168	Russell, John T.	Gratz, William (Bill)
SB 1182	Singleton, Marvin	Barry, Joan
SB 1191	Jacob, Kenneth B.	Graham, Chuck
SB 1199	Foster, Bill I.	Bearden, Carl
SB 1202	Westfall, Morris	Koller, Don
SB 1207	Bentley, Roseann	Holand, Roy
SB 1210	Johnson, Sidney	Lawson, Maurice
SB 1213	Mathewson, James L.	Hosmer, Craig
SB 1217	Coleman, Maida J.	Boykins, Amber (Holly)
SB 1241	Coleman, Maida J. Bland, Mary	Boykins, Amber (Holly)
SB 1243	Johnson, Sidney	Kelly, Glenda McKenna, Ryan
SB 1244	Bland, Mary	Barry, Joan
SB 1247	Quick, Edward E.	Willoughby, Philip
SB 1248	Mathewson, James L. Kenney, Bill	Foley, James
SB 1266	Kenney, Bill	Hoppe, Thomas
SJR 024	Johnson, Sidney	Farnen, Ted

ACCOUNTANTS

- HB 1600 Alters provisions regarding accountants, the executive board of nursing, and placards in pool halls

ADMINISTRATION, OFFICE OF

- SB 0695 Expands the Children's Trust Fund Board from seventeen to twenty-one members
- SB 0786 Authorizes certain design and build contracts when the contractor is not licensed in Missouri
- SB 1119 Authorizes Office of Administration to provide security guards at state-owned or leased buildings
- HB 1840 Establishes an electronic reporting system for lobbyist reports
- HB 1849 Authorizes conveyance of state property to the Crawford County Commission
- HB 1861 Authorizes a conveyance of state property to the Habitat for Humanity of St. Francois County

ADMINISTRATIVE LAW

- HB 1150 Permits negotiation and provides amnesty for taxes, allows Simplified Sales Tax Admin., & reforms property assessment

ADMINISTRATIVE RULES

- SCR 058 Disapproves Rule 20 CSR 5006.700 and requires the Dept. of Insurance to promulgate rules regarding reimbursement of MCO
- HB 1674 Requires retirement plans to file proposed rules with the Joint Committee on Public Employee Retirement

AGRICULTURE AND ANIMALS

- SB 0639 Modifies production requirements for sellers of jams and jellies
- SB 0865 Changes the assessment renewal on boll weevil eradication from five years to ten years
- SCR 047 Creates the Poultry Industry Committee to study the impact of the poultry industry on the state environment and economy
- HB 1348 Makes numerous changes to agricultural programs
- HB 1988 Makes the Missouri Fox Trotting Horse the official horse of Missouri
- HCR 024 Approves funding for an agricultural research and demonstration center for the CMSU campus
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AGRICULTURE DEPT.

- SB 0865 Changes the assessment renewal on boll weevil eradication from five years to ten years
- SB 1071 Revises current weights and measures law
- SCR 047 Creates the Poultry Industry Committee to study the impact of the poultry industry on the state environment and economy
- HB 1348 Makes numerous changes to agricultural programs

AIDS

- HB 1756 Modifies testing of and release of records regarding certain sexually transmitted diseases

AIRCRAFT AND AIRPORTS

- SB 0701 Modifies law to reflect the fact the Federal Aviation Administration issues airmen certificates
- SB 0834 Allows Sunday liquor sales by the drink at establishments within an international airport
- HJR 047 Allows joint boards and commissions to own, operate and issue bonds for joint municipal utility projects

ALCOHOL

- HB 1532 Revises dram shop liability
- HB 1600 Alters provisions regarding accountants, the executive board of nursing, and placards in pool halls

AMBULANCES AND AMBULANCE DISTRICTS

- SB 1107 Revises laws relating to ambulance districts, fire protection districts and ambulance services

APPROPRIATIONS

- SB 1191 Creates MO Tobacco Settlement Auth. which may issue bonds to be repaid w/net tobacco settlement agreement recoveries
- HB 1101 Public Debt
- HB 1102 Appropriations for the State Board of Education and the Department of Elementary and Secondary Education
- HB 1103 Appropriations for the Department of Higher Education
- HB 1104 Appropriations for the Department of Revenue and the Department of Transportation
- HB 1105 Appropriations for the Office of Administration, Department of Transportation and Chief Executive's Office
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- HB 1106 Appropriations for the departments of Natural Resources, Agriculture and Conservation
- HB 1107 Appropriations for the departments of Economic Development, Insurance and Labor and Industrial Relations
- HB 1108 Appropriations for the Department of Public Safety
- HB 1109 Appropriation for the Department of Corrections
- HB 1110 Appropriations for the depts. of Health & Mental Health, the Board of Public Bldgs. & the MO Health Facets. Review Comm.
- HB 1111 Appropriations for the Department of Social Services
- HB 1112 Appropriations for state elected officials, judiciary and the General Assembly
- HB 1115 Appropriates money for supplemental purposes for several departments and offices of state government
- HB 1120 To appropriate money for planning, expenses, and for capital improvements
- HB 1121 Appropriates money for expenses, grants, refunds, distributions and other purposes
- HB 1812 Expands the purpose of the Department of Health and Senior Services Fund
- HB 1953 Reimbursement for members of the Dept. of Health and Senior Services' advisory committees subject to appropriations

ARCHITECTS

- SB 0786 Authorizes certain design and build contracts when the contractor is not licensed in Missouri
- SB 0840 Revises the statute of limitations and adds economic loss damages for home improvements

ATTORNEY GENERAL, STATE

- SB 1191 Creates MO Tobacco Settlement Auth. which may issue bonds to be repaid w/net tobacco settlement agreement recoveries
- SB 1266 Creates felony for sale or distribution of gray market cigarettes
- HB 1895 Establishes the Criminal Records and Justice Information Advisory Committee

ATTORNEYS

- HB 1814 Modifies various provisions relating to orders of protection
- HB 2080 Revises retirement provisions for counties who elected to have a full-time prosecuting attorney prior to 8/28/01
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AUDITOR, STATE

- SB 1143 Modifies state auditor duties regarding bonds

BANKS AND FINANCIAL INSTITUTIONS

- SB 0729 Mortgages may be insured in an amount not to exceed 103% of fair market value of the property
- SB 0884 Creates new restrictions on interest that can be charged in payday loans
- SB 0895 Amends various provisions related to financial institutions
- SB 0959 Director of Revenue may issue opinion whether certain investment corporations may use multistate income calculation
- SB 0997 Modifies duties of county collectors with respect to financial institutions
- HB 1151 Corrects an erroneous internal cross-reference in the law on administration of trusts
- HB 1375 Mortgages may be insured in an amount not to exceed 103% of fair market value of property
- HB 1568 Modifies various insurance laws

BOARDS, COMMISSIONS, COMMITTEES, COUNCILS

- SB 0695 Expands the Children's Trust Fund Board from seventeen to twenty-one members
- SB 0708 Revises membership of Clean Water Commission
- SB 0776 Personally identifiable information of participants in the Higher Education Savings Program shall be confidential
- SB 0786 Authorizes certain design and build contracts when the contractor is not licensed in Missouri
- SB 0795 Creates Emergency Communications Systems Fund for use of counties and allows certain board to set and collect fees
- SB 0892 Allows certain additional services to be prepurchased from cemeteries
- SB 0976 Requires one member of the state board of health to be a chiropractor
- SB 0980 Revises reciprocal licensing procedures for physical therapists (Vetoed)
- SB 1107 Revises laws relating to ambulance districts, fire protection districts and ambulance services
- HB 1032 Requires one member of the State Board of Health to be a chiropractor
- HB 1348 Makes numerous changes to agricultural programs
- HB 1600 Alters provisions regarding accountants, the executive board of nursing, and placards in pool halls
- HB 1773 Modifies the compensation, vacation, and holidays of members of the City of St. Louis Police Department
- HB 1846 Alters the dates on which boards of trustees of towns and villages must publish financial statements
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- HB 1895 Establishes the Criminal Records and Justice Information Advisory Committee
- HB 1921 Modifies provisions related to credit unions
- HB 1937 Modifies provisions for the licensure of clinical perfusionists
- HB 1953 Reimbursement for members of the Dept. of Health and Senior Services' advisory committees subject to appropriations
- HB 2001 Allows the dental board to enter into diversion agreements with licensees in lieu of formal disciplinary action
- HB 2117 Modifies the provisions regarding access to information technology by state departments and agencies
- HCR 025 Creates the Missouri Commission on the Delta Regional Authority
- HJR 047 Allows joint boards and commissions to own, operate and issue bonds for joint municipal utility projects

BOATS AND WATERCRAFT

- HB 1075 Revises procedure for landowners to acquire title to abandoned vehicles
- HB 1838 Requires certification of place of business for motor vehicle dealers, boat dealers and boat manufacturers

BONDS-GENERAL OBLIGATION AND REVENUE

- SB 0895 Amends various provisions related to financial institutions
- SB 0947 Revises community colleges' property tax rates, capital improvement subdistricts, & MOHEFA direct deposit agreements
- SB 0984 Revises various provisions relating to the Department of Natural Resources
- SB 1143 Modifies state auditor duties regarding bonds
- SB 1191 Creates MO Tobacco Settlement Auth. which may issue bonds to be repaid w/net tobacco settlement agreement recoveries
- HB 1477 Junior colleges allowed same access as school districts to participate in MOHEFA direct deposit agreements
- HB 1711 Generates numerous changes to the state's education policy including modifications concerning the foundation formula
- HB 1748 Revises various provisions relating to water resources (Vetoed)
- HCR 024 Approves funding for an agricultural research and demonstration center for the CMSU campus
- HJR 047 Allows joint boards and commissions to own, operate and issue bonds for joint municipal utility projects

BONDS-SURETY

- SB 0720 Limits the bond amount for deputies and assistants appointed by collectors and treasurer ex officio collectors
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BUSINESS AND COMMERCE

- SB 0884 Creates new restrictions on interest that can be charged in payday loans
SB 0892 Allows certain additional services to be prepurchased from cemeteries
SB 0895 Amends various provisions related to financial institutions
SB 0941 Allows owners of business property to appoint representative in matters involving drainage districts
SB 1163 Clarifies provisions in the air emissions banking and trading program
SB 1243 Changes term innkeeper to lodging establishment and changes posting of notice requirements for lodging establishments
HB 1402 Modifies provisions relating to utility projects
HB 1403 Allows retainage in private building contracts
HB 1600 Alters provisions regarding accountants, the executive board of nursing, and placards in pool halls
HB 1838 Requires certification of place of business for motor vehicle dealers, boat dealers and boat manufacturers
HB 2008 Revises provisions relating to the sale and titling of motor vehicles and vessels
HB 2120 Property stolen from a merchant shall be valued at the merchant's sales price

CAMPAIGN FINANCE

- HB 1495 Changes filing exemption statement requirements (Vetoed)

CEMETERIES

- SB 0892 Allows certain additional services to be prepurchased from cemeteries
HB 1148 Religious cemeteries may establish scatter gardens in cemetery for scattering of human cremains

CHILDREN AND MINORS

- SB 0695 Expands the Children's Trust Fund Board from seventeen to twenty-one members
SB 0718 Mandates weekly Pledge of Allegiance for school children
SB 0923 Modifies various provisions relating to children and families
SB 1244 Allows the continuation of a newborn hearing screening from a transferring facility to a receiving facility
HB 1443 Modifies provisions relating to child abandonment
HB 1548 Allows the continuation of a newborn hearing screening from a transferring facility to a receiving facility
HB 1711 Generates numerous changes to the state's education policy including modifications concerning the foundation formula
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- HB 1776 Relocates custody of the Statutory County Recorder's Fund and limits fees for processing certain adoption documents
HB 1814 Modifies various provisions relating to orders of protection
HB 1926 Extends the sunset on the Children's Health Insurance Program to July 1, 2007
HB 2023 Alters definitions regarding special education services and provisions concerning disciplinary changes of placement

CHIROPRACTORS

- SB 0976 Requires one member of the state board of health to be a chiropractor
HB 1032 Requires one member of the State Board of Health to be a chiropractor

CIRCUIT CLERK

- HB 1659 Allows court clerks to collect certain locally-imposed surcharges if authorized by statute
HB 1895 Establishes the Criminal Records and Justice Information Advisory Committee

CITIES, TOWNS AND VILLAGES

- SB 0856 Authorizes a new enterprise zone for Wright County and for the city of Carl Junction in Jasper County
SB 0918 Exempts displays of the U.S. flag from statutes and ordinances
SB 0992 Authorizes Buchanan County to seek a grant from the Contiguous Property Redevelopment Fund
SB 1086 Modifies nuisance laws for certain political subdivisions and laws regarding rehabilitation of abandoned buildings
SB 1151 Expands purposes for which certain local tourism taxes can be used
SB 1168 Authorizes the conveyance of a clear zone easement to the city of Lebanon and the conveyance of certain state property
SB 1210 Permits a hotel tax to be submitted to a vote in certain locations
SB 1217 Clarifies the deadline for personal property tax returns
HB 1148 Religious cemeteries may establish scatter gardens in cemetery for scattering of human cremains
HB 1636 Allows Kansas City to designate Jackson County election authority as verification board for the city
HB 1711 Generates numerous changes to the state's education policy including modifications concerning the foundation formula
HB 1839 Modifies procedure for dissolution of special road districts
HB 1846 Alters the dates on which boards of trustees of towns and villages must publish financial statements
HB 2039 Allows counties, cities, or villages to designate memorial highways for law enforcement officers killed in line of duty
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- HB 2130 Clarifies the deadline for personal property tax returns property listings
HJR 047 Allows joint boards and commissions to own, operate and issue bonds for joint municipal utility projects

CIVIL PROCEDURE

- HB 1532 Revises dram shop liability
HB 1715 Expands the use of state-funded interpreters for the deaf in judicial proceedings
HB 1768 Provides that liens of judgments or decrees on real estate shall continue for ten years
HB 1814 Modifies various provisions relating to orders of protection

COMMERCIAL CODE

- SB 0895 Amends various provisions related to financial institutions

CONSTITUTIONAL AMENDMENTS

- SJR 024 Revises term limits to exclude certain partial terms of service in the General Assembly
HJR 047 Allows joint boards and commissions to own, operate and issue bonds for joint municipal utility projects

CONSUMER PROTECTION

- SB 0884 Creates new restrictions on interest that can be charged in payday loans
HB 1381 Allows insurance policies and other materials to be provided in a language other than English
HB 1386 Revises the law regarding tinted windows
HB 1890 Codifies Mobile Telecommunications Sourcing Act

CONTRACTS AND CONTRACTORS

- SB 0786 Authorizes certain design and build contracts when the contractor is not licensed in Missouri
SB 0840 Revises the statute of limitations and adds economic loss damages for home improvements
SB 1012 Extends the period of payments from 10 to 20 years on guaranteed energy cost savings contracts
SB 1119 Authorizes Office of Administration to provide security guards at state-owned or leased buildings
HB 1403 Allows retainage in private building contracts
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COOPERATIVES

HB 1348 Makes numerous changes to agricultural programs

CORPORATIONS

SB 0786 Authorizes certain design and build contracts when the contractor is not licensed in Missouri

CORRECTIONS DEPT.

HB 1895 Establishes the Criminal Records and Justice Information Advisory Committee

COUNTIES

SB 0675 Revises election laws
SB 0720 Limits the bond amount for deputies and assistants appointed by collectors and treasurer ex officio collectors
SB 0795 Creates Emergency Communications Systems Fund for use of counties and allows certain board to set and collect fees
SB 0856 Authorizes a new enterprise zone for Wright County and for the city of Carl Junction in Jasper County
SB 0941 Allows owners of business property to appoint representative in matters involving drainage districts
SB 0992 Authorizes Buchanan County to seek a grant from the Contiguous Property Redevelopment Fund
SB 1001 Requires all counties or St. Louis who participate in the sheriff retirement system to also fund the system
SB 1086 Modifies nuisance laws for certain political subdivisions and laws regarding rehabilitation of abandoned buildings
SB 1210 Permits a hotel tax to be submitted to a vote in certain locations
SB 1217 Clarifies the deadline for personal property tax returns
HB 1041 Makes various revisions to tourism taxes and tax levies in various cities and counties
HB 1580 Revises statute concerning county boards of equalization
HB 1634 Allows requisition of additional funds by land trusts if insufficient funds exist to pay expenses
HB 1849 Authorizes conveyance of state property to the Crawford County Commission
HB 1982 Revises travel expense guidelines for certain county assessors
HB 2039 Allows counties, cities, or villages to designate memorial highways for law enforcement officers killed in line of duty
HB 2130 Clarifies the deadline for personal property tax returns property listings
HB 2137 Increases compensation for county treasurers

COUNTY GOVERNMENT

- SB 0720 Limits the bond amount for deputies and assistants appointed by collectors and treasurer ex officio collectors
- SB 0918 Exempts displays of the U.S. flag from statutes and ordinances
- SB 0992 Authorizes Buchanan County to seek a grant from the Contiguous Property Redevelopment Fund
- SB 1078 Changes the custodian of the Statutory County Recorder's Fund
- HB 1580 Revises statute concerning county boards of equalization
- HB 1634 Allows requisition of additional funds by land trusts if insufficient funds exist to pay expenses
- HB 1776 Relocates custody of the Statutory County Recorder's Fund and limits fees for processing certain adoption documents
- HB 1849 Authorizes conveyance of state property to the Crawford County Commission
- HB 2080 Revises retirement provisions for counties who elected to have a full-time prosecuting attorney prior to 8/28/01
- HB 2137 Increases compensation for county treasurers

COUNTY OFFICIALS

- SB 0720 Limits the bond amount for deputies and assistants appointed by collectors and treasurer ex officio collectors
- SB 1078 Changes the custodian of the Statutory County Recorder's Fund
- SB 1102 Allows county prosecutors and circuit attorneys to prosecute nuisance cases
- SB 1113 Revises law related to coroner's inquests
- HB 1580 Revises statute concerning county boards of equalization
- HB 1634 Allows requisition of additional funds by land trusts if insufficient funds exist to pay expenses
- HB 1776 Relocates custody of the Statutory County Recorder's Fund and limits fees for processing certain adoption documents
- HB 2002 Revises provisions concerning coroner's inquests
- HB 2018 Requires county clerk of Jackson County to forward tax books for school districts by June 15
- HB 2064 Changes requirements for sheriff's deeds given under the Municipal Land Reutilization Law
- HB 2080 Revises retirement provisions for counties who elected to have a full-time prosecuting attorney prior to 8/28/01
- HB 2130 Clarifies the deadline for personal property tax returns property listings
- HB 2137 Increases compensation for county treasurers

COURTS

- SB 0840 Revises the statute of limitations and adds economic loss damages for home improvements
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- SB 1028 Revises process for creation of law enforcement districts
HB 1078 Authorizes sales tax for regional jail districts and associated court facilities
HB 1659 Allows court clerks to collect certain locally-imposed surcharges if authorized by statute
HB 1715 Expands the use of state-funded interpreters for the deaf in judicial proceedings
HB 1768 Provides that liens of judgments or decrees on real estate shall continue for ten years
HB 1814 Modifies various provisions relating to orders of protection
HB 1895 Establishes the Criminal Records and Justice Information Advisory Committee
HB 2002 Revises provisions concerning coroner's inquests

COURTS, JUVENILE

- HB 1715 Expands the use of state-funded interpreters for the deaf in judicial proceedings
HB 1814 Modifies various provisions relating to orders of protection

CREDIT AND BANKRUPTCY

- SB 0884 Creates new restrictions on interest that can be charged in payday loans
SB 0895 Amends various provisions related to financial institutions
HB 1502 Restricts automobile and property insurers from using credit information in underwriting practices
HB 1537 Allows estate value to be offset by debt in determining whether the small estate administration statutes apply

CREDIT UNIONS

- HB 1921 Modifies provisions related to credit unions

CRIMES AND PUNISHMENT

- SB 0650 Removes statute of limitations for forcible rape and forcible sodomy and armed criminal action
SB 0758 Clarifies registration requirements for offenders
SB 0969 Revises numerous provisions relating to the sex offender registry and other sex crimes
SB 1070 Allows Highway Patrol to provide information on persons registered under "Megan's Law" (Vetoed)
SB 1266 Creates felony for sale or distribution of gray market cigarettes
HB 1037 Removes statute of limitations for forcible rape, attempted forcible rape, forcible sodomy and attempted forcible sodomy
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- HB 1270 Revises various laws pertaining to the operation of motor vehicles
HB 1443 Modifies provisions relating to child abandonment
HB 1756 Modifies testing of and release of records regarding certain sexually transmitted diseases
HB 1888 Revises pawnbroker provisions, theft crime felony limits, third offense stealing charges and bad check costs
HB 1895 Establishes the Criminal Records and Justice Information Advisory Committee
HB 2120 Property stolen from a merchant shall be valued at the merchant's sales price

CRIMINAL PROCEDURE

- SB 0650 Removes statute of limitations for forcible rape and forcible sodomy and armed criminal action
SB 0969 Revises numerous provisions relating to the sex offender registry and other sex crimes
HB 1037 Removes statute of limitations for forcible rape, attempted forcible rape, forcible sodomy and attempted forcible sodomy
HB 1888 Revises pawnbroker provisions, theft crime felony limits, third offense stealing charges and bad check costs
HB 2120 Property stolen from a merchant shall be valued at the merchant's sales price

DENTISTS

- HB 2001 Allows the dental board to enter into diversion agreements with licensees in lieu of formal disciplinary action

DISABILITIES

- SB 0874 Prescribes additional guidelines concerning service delivery for special education services
HB 1711 Generates numerous changes to the state's education policy including modifications concerning the foundation formula
HB 1715 Expands the use of state-funded interpreters for the deaf in judicial proceedings
HB 1783 Modifies various provisions relating to the deaf and hard of hearing
HB 2117 Modifies the provisions regarding access to information technology by state departments and agencies

DOMESTIC RELATIONS

- SB 1247 Requires the Kansas City Firefighters Pension Fund to recognize domestic relations orders
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HB 1814 Modifies various provisions relating to orders of protection

DRAINAGE AND LEVEE DISTRICTS

SB 0941 Allows owners of business property to appoint representative in matters involving drainage districts

DRUNK DRIVING/BOATING

HB 2062 Revises various provisions relating to restricted driving privilege

EASEMENTS AND CONVEYANCES

SB 1168 Authorizes the conveyance of a clear zone easement to the city of Lebanon and the conveyance of certain state property

HB 1811 Authorizes various conveyances of property

HB 1849 Authorizes conveyance of state property to the Crawford County Commission

HB 1861 Authorizes a conveyance of state property to the Habitat for Humanity of St. Francois County

ECONOMIC DEVELOPMENT

SB 0856 Authorizes a new enterprise zone for Wright County and for the city of Carl Junction in Jasper County

SB 0992 Authorizes Buchanan County to seek a grant from the Contiguous Property Redevelopment Fund

ECONOMIC DEVELOPMENT DEPT.

SB 0786 Authorizes certain design and build contracts when the contractor is not licensed in Missouri

SB 0892 Allows certain additional services to be prepurchased from cemeteries

SB 0980 Revises reciprocal licensing procedures for physical therapists (Vetoed)

SB 0992 Authorizes Buchanan County to seek a grant from the Contiguous Property Redevelopment Fund

SB 1202 Transfers various powers to the Department of Transportation to implement Governor's Executive Order

HB 1937 Modifies provisions for the licensure of clinical perfusionists

HB 2001 Allows the dental board to enter into diversion agreements with licensees in lieu of formal disciplinary action

EDUCATION, ELEMENTARY AND SECONDARY

SB 0718 Mandates weekly Pledge of Allegiance for school children

- SB 0722 Renders alterations to policies regarding teachers' licenses and permits temporary administrator certificates
- SB 0831 Establishes December 15th as Bill of Rights Day
- SB 0859 Modifies A+ program's three-year attendance requirement and gives supremacy to tuition reimbursements over school grants
- SB 0874 Prescribes additional guidelines concerning service delivery for special education services
- SB 1248 Modifies various provisions related to collection and refund procedures of sales and income taxes
- HB 1515 Extends provisions of the honorary high school diploma program for veterans to include POWs
- HB 1711 Generates numerous changes to the state's education policy including modifications concerning the foundation formula
- HB 1783 Modifies various provisions relating to the deaf and hard of hearing
- HB 1973 Requires Dept. of Elementary & Secondary Education to conduct a study relating to economics & personal finance ed.
- HB 2018 Requires county clerk of Jackson County to forward tax books for school districts by June 15
- HB 2023 Alters definitions regarding special education services and provisions concerning disciplinary changes of placement

EDUCATION, HIGHER

- SB 0776 Personally identifiable information of participants in the Higher Education Savings Program shall be confidential
- SB 0859 Modifies A+ program's three-year attendance requirement and gives supremacy to tuition reimbursements over school grants
- SB 0947 Revises community colleges' property tax rates, capital improvement subdistricts, & MOHEFA direct deposit agreements
- SB 1048 Makes a technical correction to section 304.027 regarding the spinal cord injury fund
- HB 1086 Requires confidentiality concerning information of participants in MO Higher Education Savings Program
- HB 1406 Increases the membership of the Northwest Missouri State University's board of regents from seven to nine
- HB 1477 Junior colleges allowed same access as school districts to participate in MOHEFA direct deposit agreements
- HB 2018 Requires county clerk of Jackson County to forward tax books for school districts by June 15
- HB 2022 Reenacts section 178.870 and allows the establishment of community college capital improvement subdistricts
- HB 2047 Expands criteria for college students called into military service to qualify for tuition refunds & incomplete grades
- HCR 024 Approves funding for an agricultural research and demonstration center for the CMSU campus
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ELDERLY

- SB 0810 Modifies provisions relating to supplemental assistance payments for the elderly and disabled
- SB 1094 Extends the sunset on the nursing facility reimbursement allowance and exempts PACE projects from HMO requirements
- HB 1781 Extends the sunset on the nursing facility reimbursement allowance to September 30, 2005

ELECTIONS

- SB 0675 Revises election laws
- SB 0749 Specifies the effective dates for laws passed by initiative and vetoed bills when veto is overridden (Vetoed)
- SB 0962 Allows Kansas City to designate Jackson county election authority as verification board for the city
- SJR 024 Revises term limits to exclude certain partial terms of service in the General Assembly
- HB 1342 Provides that no election must be held for party committee- man or woman if only one person files prior to the deadline
- HB 1348 Makes numerous changes to agricultural programs
- HB 1492 Changes campaign finance disclosure report deadlines
- HB 1495 Changes filing exemption statement requirements (Vetoed)
- HB 1636 Allows Kansas City to designate Jackson County election authority as verification board for the city
- HB 1840 Establishes an electronic reporting system for lobbyist reports

ELEMENTARY AND SECONDARY EDUCATION DEPT.

- HB 1515 Extends provisions of the honorary high school diploma program for veterans to include POWs
- HB 1711 Generates numerous changes to the state's education policy including modifications concerning the foundation formula
- HB 1783 Modifies various provisions relating to the deaf and hard of hearing
- HB 1973 Requires Dept. of Elementary & Secondary Education to conduct a study relating to economics & personal finance ed.
- HB 2023 Alters definitions regarding special education services and provisions concerning disciplinary changes of placement

EMERGENCIES

- SB 0712 Modifies provisions relating to terrorism
- SB 0714 Allows the state to temporarily license certain health care practitioners during a state public health emergency
- SB 0726 September 11th is Emergency Services Day

- SB 0795 Creates Emergency Communications Systems Fund for use of counties and allows certain board to set and collect fees
- SB 1107 Revises laws relating to ambulance districts, fire protection districts and ambulance services
- HB 1668 Establishes September 11th of each year as Emergency Personnel Appreciation Day

EMBLEMS

- HB 1988 Makes the Missouri Fox Trotting Horse the official horse of Missouri

EMPLOYEES-EMPLOYERS

- SB 1070 Allows Highway Patrol to provide information on persons registered under "Megan's Law" (Vetoed)
- HB 1773 Modifies the compensation, vacation, and holidays of members of the City of St. Louis Police Department
- HB 1822 Employees charged military leave only for hours which they would have otherwise worked, in one hour increments

ENERGY

- SB 0810 Modifies provisions relating to supplemental assistance payments for the elderly and disabled
- SB 1012 Extends the period of payments from 10 to 20 years on guaranteed energy cost savings contracts
- HB 1402 Modifies provisions relating to utility projects

ENGINEERS

- SB 0786 Authorizes certain design and build contracts when the contractor is not licensed in Missouri

ENTERPRISE ZONES

- SB 0856 Authorizes a new enterprise zone for Wright County and for the city of Carl Junction in Jasper County

ENTERTAINMENT, SPORTS AND AMUSEMENTS

- HB 1600 Alters provisions regarding accountants, the executive board of nursing, and placards in pool halls
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ENVIRONMENTAL PROTECTION

- SB 0708 Revises membership of Clean Water Commission
SB 0984 Revises various provisions relating to the Department of Natural Resources
SB 1011 Removes references to used tires from the waste tire law and sets emission limits for use of tire derived fuel
SB 1163 Clarifies provisions in the air emissions banking and trading program
HB 1748 Revises various provisions relating to water resources (Vetoed)

ESTATES, WILLS AND TRUSTS

- SB 0742 Makes technical correction to trusts and estates law
HB 1151 Corrects an erroneous internal cross-reference in the law on administration of trusts
HB 1537 Allows estate value to be offset by debt in determining whether the small estate administration statutes apply
HB 1634 Allows requisition of additional funds by land trusts if insufficient funds exist to pay expenses

ETHICS

- HB 1492 Changes campaign finance disclosure report deadlines
HB 1840 Establishes an electronic reporting system for lobbyist reports

EVIDENCE

- SB 1113 Revises law related to coroner's inquests
HB 1532 Revises dram shop liability
HB 1888 Revises pawnbroker provisions, theft crime felony limits, third offense stealing charges and bad check costs
HB 2002 Revises provisions concerning coroner's inquests

FAMILY LAW

- SB 1247 Requires the Kansas City Firefighters Pension Fund to recognize domestic relations orders
HB 1443 Modifies provisions relating to child abandonment
HB 1814 Modifies various provisions relating to orders of protection

FAMILY SERVICES DIVISION

- SB 0923 Modifies various provisions relating to children and families
HB 1443 Modifies provisions relating to child abandonment

FEDERAL-STATE RELATIONS

- SB 0675 Revises election laws
HCR 016 Requests the Joint Committee on the Library of Congress to approve the replacement of the statue of Francis Preston
HCR 025 Creates the Missouri Commission on the Delta Regional Authority

FEEES

- SB 0895 Amends various provisions related to financial institutions
SB 0984 Revises various provisions relating to the Department of Natural Resources
SB 1078 Changes the custodian of the Statutory County Recorder's Fund
HB 1634 Allows requisition of additional funds by land trusts if insufficient funds exist to pay expenses
HB 1748 Revises various provisions relating to water resources (Vetoed)
HB 1776 Relocates custody of the Statutory County Recorder's Fund and limits fees for processing certain adoption documents
HB 1814 Modifies various provisions relating to orders of protection
HB 2064 Changes requirements for sheriff's deeds given under the Municipal Land Reutilization Law

FIRE PROTECTION

- SB 1107 Revises laws relating to ambulance districts, fire protection districts and ambulance services
HB 1668 Establishes September 11th of each year as Emergency Personnel Appreciation Day

FUNERALS AND FUNERAL DIRECTORS

- SB 0892 Allows certain additional services to be prepurchased from cemeteries
HB 1148 Religious cemeteries may establish scatter gardens in cemetery for scattering of human cremains

GENERAL ASSEMBLY

- SB 0749 Specifies the effective dates for laws passed by initiative and vetoed bills when veto is overridden (Vetoed)
SB 1191 Creates MO Tobacco Settlement Auth. which may issue bonds to be repaid w/net tobacco settlement agreement recoveries
SCR 047 Creates the Poultry Industry Committee to study the impact of the poultry industry on the state environment and economy
SCR 058 Disapproves Rule 20 CSR 5006.700 and requires the Dept. of Insurance to promulgate rules regarding reimbursement of MCO
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- SCR 074 Renames the conference center at Roaring River State Park the Emory Melton Inn and Conference Center
- SJR 024 Revises term limits to exclude certain partial terms of service in the General Assembly
- HB 1674 Requires retirement plans to file proposed rules with the Joint Committee on Public Employee Retirement
- HB 1789 Allows special license plates for former members of the General Assembly & revises historic motor vehicle plates law (Vetoed)
- HB 2078 Repeals obsolete and expired sections of law
- HCR 016 Requests the Joint Committee on the Library of Congress to approve the replacement of the statue of Francis Preston
- HCR 024 Approves funding for an agricultural research and demonstration center for the CMSU campus
- HCR 025 Creates the Missouri Commission on the Delta Regional Authority

GOVERNOR & LT. GOVERNOR

- SB 0712 Modifies provisions relating to terrorism
- SB 0749 Specifies the effective dates for laws passed by initiative and vetoed bills when veto is overridden (Vetoed)
- SB 0804 Authorizes Governor to convey 12 property interests held by the Department of Mental Health to Kansas City
- SB 0812 Requires all executive orders to be published in the Missouri Register after January 1, 2003
- SB 1124 Authorizes the governor to convey certain property in the city of St. Louis
- SB 1168 Authorizes the conveyance of a clear zone easement to the city of Lebanon and the conveyance of certain state property
- SB 1191 Creates MO Tobacco Settlement Auth. which may issue bonds to be repaid w/net tobacco settlement agreement recoveries
- HB 1811 Authorizes various conveyances of property
- HB 1849 Authorizes conveyance of state property to the Crawford County Commission

GUARDIANS

- HB 1814 Modifies various provisions relating to orders of protection

HEALTH CARE

- SB 0712 Modifies provisions relating to terrorism
- SB 0714 Allows the state to temporarily license certain health care practitioners during a state public health emergency
- SB 1009 Modifies the law on insurance company investments and modifies law regarding long-term care insurance
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- SB 1024 Requires physicians to maintain adequate and complete medical records for their patients
- SB 1026 Modifies provisions relating to insurance coverage for cancer treatment and other inherited diseases
- SB 1048 Makes a technical correction to section 304.027 regarding the spinal cord injury fund
- SB 1182 Modifies the law relating to health care professionals under the State Board of Registration for the Healing Arts
- SB 1207 Requires the state board of registration for the healing arts to accept continuing medical education on autism
- SB 1244 Allows the continuation of a newborn hearing screening from a transferring facility to a receiving facility
- HB 1443 Modifies provisions relating to child abandonment
- HB 1473 Allows enrollees to obtain managed care documents via the Internet & exempts certain policies from health benefit plan
- HB 1548 Allows the continuation of a newborn hearing screening from a transferring facility to a receiving facility
- HB 1756 Modifies testing of and release of records regarding certain sexually transmitted diseases
- HB 1937 Modifies provisions for the licensure of clinical perfusionists

HEALTH CARE PROFESSIONALS

- SB 0712 Modifies provisions relating to terrorism
 - SB 0714 Allows the state to temporarily license certain health care practitioners during a state public health emergency
 - SB 0980 Revises reciprocal licensing procedures for physical therapists (Vetoed)
 - SB 1024 Requires physicians to maintain adequate and complete medical records for their patients
 - SB 1026 Modifies provisions relating to insurance coverage for cancer treatment and other inherited diseases
 - SB 1107 Revises laws relating to ambulance districts, fire protection districts and ambulance services
 - SB 1182 Modifies the law relating to health care professionals under the State Board of Registration for the Healing Arts
 - SB 1207 Requires the state board of registration for the healing arts to accept continuing medical education on autism
 - SB 1244 Allows the continuation of a newborn hearing screening from a transferring facility to a receiving facility
 - HB 1443 Modifies provisions relating to child abandonment
 - HB 1473 Allows enrollees to obtain managed care documents via the Internet & exempts certain policies from health benefit plan
 - HB 1548 Allows the continuation of a newborn hearing screening from a transferring facility to a receiving facility
 - HB 1937 Modifies provisions for the licensure of clinical perfusionists
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HEALTH DEPT.

- SB 0712 Modifies provisions relating to terrorism
- SB 0923 Modifies various provisions relating to children and families
- SB 0976 Requires one member of the state board of health to be a chiropractor
- SB 1094 Extends the sunset on the nursing facility reimbursement allowance and exempts PACE projects from HMO requirements
- SB 1102 Allows county prosecutors and circuit attorneys to prosecute nuisance cases
- SB 1107 Revises laws relating to ambulance districts, fire protection districts and ambulance services
- SB 1132 Authorizes the recorder of deeds in the city of St. Louis to be named the local registrar for birth and death records
- HB 1032 Requires one member of the State Board of Health to be a chiropractor
- HB 1756 Modifies testing of and release of records regarding certain sexually transmitted diseases
- HB 1781 Extends the sunset on the nursing facility reimbursement allowance to September 30, 2005
- HB 1812 Expands the purpose of the Department of Health and Senior Services Fund
- HB 1953 Reimbursement for members of the Dept. of Health and Senior Services' advisory committees subject to appropriations

HEALTH, PUBLIC

- SB 0639 Modifies production requirements for sellers of jams and jellies
- SB 0712 Modifies provisions relating to terrorism
- SB 0714 Allows the state to temporarily license certain health care practitioners during a state public health emergency
- HB 1756 Modifies testing of and release of records regarding certain sexually transmitted diseases

HIGHER EDUCATION DEPT.

- SB 0776 Personally identifiable information of participants in the Higher Education Savings Program shall be confidential
- HB 1086 Requires confidentiality concerning information of participants in MO Higher Education Savings Program
- HB 1406 Increases the membership of the Northwest Missouri State University's board of regents from seven to nine
- HB 1477 Junior colleges allowed same access as school districts to participate in MOHEFA direct deposit agreements
- HB 2047 Expands criteria for college students called into military service to qualify for tuition refunds & incomplete grades

HIGHWAY PATROL

- SB 1070 Allows Highway Patrol to provide information on persons registered under "Megan's Law" (Vetoed)
- SB 1213 Requires railroad policemen to be commissioned
- HB 1141 Designates various highways & bridges as memorial highways and designates an official state horse
- HB 1196 Modifies various provisions relating to transportation, sales tax, and billboard provisions
- HB 1386 Revises the law regarding tinted windows
- HB 1455 Revises provisions of certain public retirement systems
- HB 1838 Requires certification of place of business for motor vehicle dealers, boat dealers and boat manufacturers
- HB 1895 Establishes the Criminal Records and Justice Information Advisory Committee

HISTORIC PRESERVATION

- SB 0992 Authorizes Buchanan County to seek a grant from the Contiguous Property Redevelopment Fund
- SB 1086 Modifies nuisance laws for certain political subdivisions and laws regarding rehabilitation of abandoned buildings

HOLIDAYS

- SB 0726 September 11th is Emergency Services Day
- SB 0831 Establishes December 15th as Bill of Rights Day
- HB 1519 Designates April 19th of each year as "Patriots Day"
- HB 1668 Establishes September 11th of each year as Emergency Personnel Appreciation Day

HOSPITALS

- SB 0947 Revises community colleges' property tax rates, capital improvement subdistricts, & MOHEFA direct deposit agreements
- SB 1244 Allows the continuation of a newborn hearing screening from a transferring facility to a receiving facility
- HB 1443 Modifies provisions relating to child abandonment
- HB 1477 Junior colleges allowed same access as school districts to participate in MOHEFA direct deposit agreements
- HB 1548 Allows the continuation of a newborn hearing screening from a transferring facility to a receiving facility
- HB 1811 Authorizes various conveyances of property
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HOUSING

- SB 0840 Revises the statute of limitations and adds economic loss damages for home improvements
- SB 1039 Revises the composition and selection of the Kansas City housing commissioners

INSURANCE-AUTOMOBILE

- HB 1502 Restricts automobile and property insurers from using credit information in underwriting practices

INSURANCE DEPT.

- SB 0656 Allows insurance policies and other materials to be provided in a language other than English
- SB 1009 Modifies the law on insurance company investments and modifies law regarding long-term care insurance
- SCR 058 Disapproves Rule 20 CSR 5006.700 and requires the Dept. of Insurance to promulgate rules regarding reimbursement of MCO
- HB 1381 Allows insurance policies and other materials to be provided in a language other than English
- HB 1468 Modifies several provisions regulating commercial casualty insurance and commercial property insurance
- HB 1502 Restricts automobile and property insurers from using credit information in underwriting practices
- HB 1518 Allows life insurance companies to use their most recent assets statement when filing with Department of Insurance
- HB 1532 Revises dram shop liability
- HB 1568 Modifies various insurance laws

INSURANCE-GENERAL

- SB 0656 Allows insurance policies and other materials to be provided in a language other than English
- SB 0895 Amends various provisions related to financial institutions
- SB 1009 Modifies the law on insurance company investments and modifies law regarding long-term care insurance
- HB 1381 Allows insurance policies and other materials to be provided in a language other than English
- HB 1502 Restricts automobile and property insurers from using credit information in underwriting practices
- HB 1518 Allows life insurance companies to use their most recent assets statement when filing with Department of Insurance
- HB 1532 Revises dram shop liability
- HB 1568 Modifies various insurance laws
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INSURANCE-LIFE

- HB 1518 Allows life insurance companies to use their most recent assets statement when filing with Department of Insurance
- HB 1568 Modifies various insurance laws

INSURANCE-MEDICAL

- SB 1009 Modifies the law on insurance company investments and modifies law regarding long-term care insurance
- SB 1026 Modifies provisions relating to insurance coverage for cancer treatment and other inherited diseases
- HB 1473 Allows enrollees to obtain managed care documents via the Internet & exempts certain policies from health benefit plan
- HB 1926 Extends the sunset on the Children's Health Insurance Program to July 1, 2007

INSURANCE-PROPERTY

- HB 1375 Mortgages may be insured in an amount not to exceed 103% of fair market value of property
- HB 1468 Modifies several provisions regulating commercial casualty insurance and commercial property insurance
- HB 1502 Restricts automobile and property insurers from using credit information in underwriting practices

JACKSON COUNTY

- SB 0962 Allows Kansas City to designate Jackson county election authority as verification board for the city
- HB 1634 Allows requisition of additional funds by land trusts if insufficient funds exist to pay expenses
- HB 1636 Allows Kansas City to designate Jackson County election authority as verification board for the city
- HB 2018 Requires county clerk of Jackson County to forward tax books for school districts by June 15

JUDGES

- HB 1455 Revises provisions of certain public retirement systems
- HB 1495 Changes filing exemption statement requirements (Vetoed)

JURIES

- HB 2002 Revises provisions concerning coroner's inquests
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KANSAS CITY

- SB 0675 Revises election laws
SB 0804 Authorizes Governor to convey 12 property interests held by the Department of Mental Health to Kansas City
SB 0962 Allows Kansas City to designate Jackson county election authority as verification board for the city
SB 1039 Revises the composition and selection of the Kansas City housing commissioners
SB 1086 Modifies nuisance laws for certain political subdivisions and laws regarding rehabilitation of abandoned buildings
HB 1634 Allows requisition of additional funds by land trusts if insufficient funds exist to pay expenses
HB 1635 Allows interest to accrue on deposits held by water corporations
HB 1636 Allows Kansas City to designate Jackson County election authority as verification board for the city

LANDLORDS AND TENANTS

- SB 0932 Clarifies the notice due to a tenant when the landlord sells the rented property

LAW ENFORCEMENT OFFICERS AND AGENCIES

- SB 0726 September 11th is Emergency Services Day
SB 0758 Clarifies registration requirements for offenders
SB 0961 Modifies provisions relating to the Kansas City police retirement system (Vetoed)
SB 0969 Revises numerous provisions relating to the sex offender registry and other sex crimes
SB 1001 Requires all counties or St. Louis who participate in the sheriff retirement system to also fund the system
SB 1028 Revises process for creation of law enforcement districts
SB 1213 Requires railroad policemen to be commissioned
HB 1075 Revises procedure for landowners to acquire title to abandoned vehicles
HB 1078 Authorizes sales tax for regional jail districts and associated court facilities
HB 1455 Revises provisions of certain public retirement systems
HB 1773 Modifies the compensation, vacation, and holidays of members of the City of St. Louis Police Department
HB 1888 Revises pawnbroker provisions, theft crime felony limits, third offense stealing charges and bad check costs
HB 1895 Establishes the Criminal Records and Justice Information Advisory Committee
HB 2002 Revises provisions concerning coroner's inquests
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- HB 2039 Allows counties, cities, or villages to designate memorial highways for law enforcement officers killed in line of duty
- HB 2064 Changes requirements for sheriff's deeds given under the Municipal Land Reutilization Law

LIABILITY

- HB 1443 Modifies provisions relating to child abandonment
- HB 1532 Revises dram shop liability

LICENSES-DRIVER'S

- SB 1109 Requires department of revenue to issue information regarding driving while intoxicated to 1st time licensees
- SB 1202 Transfers various powers to the Department of Transportation to implement Governor's Executive Order
- HB 1265 Requires selective service registration of all male driver's license applicants eighteen to twenty-one years of age
- HB 1270 Revises various laws pertaining to the operation of motor vehicles
- HB 2062 Revises various provisions relating to restricted driving privilege

LICENSES-LIQUOR AND BEER

- SB 0834 Allows Sunday liquor sales by the drink at establishments within an international airport

LICENSES-MISC

- SB 1107 Revises laws relating to ambulance districts, fire protection districts and ambulance services
- HB 1600 Alters provisions regarding accountants, the executive board of nursing, and placards in pool halls

LICENSES-MOTOR VEHICLE

- SB 0644 Allows veterans to obtain a specialized veteran motorcycle license plate
- SB 0737 Allows 4-H members and parents of 4-H members to obtain special license plates
- SB 0745 Allows Marines and Navy personnel who participated in combat to receive Combat Action Ribbon license plates
- SB 0798 Allows two sets of specialized plates to be issued to U.S. Congressional members
- SB 0957 Creates Operation Enduring Freedom license plates & revises law on historic motor vehicle license plates
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- SB 0960 Creates the "God Bless America", "Pet Friendly" and "Air Medal" license plates
- SB 0966 Creates the St. Louis College of Pharmacy special license plate
- SB 1093 Revises the process for the registration of historic motor vehicle plates
- SB 1202 Transfers various powers to the Department of Transportation to implement Governor's Executive Order
- SB 1241 Allows persons to receive various specialized license plates and limits certain organizations from sponsoring plates
- HB 1093 Allows motorists to obtain various special license plates & limits the issuance of such plates to certain entities
- HB 1205 Creates various special license plates related to the military
- HB 1789 Allows special license plates for former members of the General Assembly & revises historic motor vehicle plates law (Vetoed)
- HB 2009 Creates advertising signage requirements for motor vehicle dealers

LICENSES-PROFESSIONAL

- SB 0701 Modifies law to reflect the fact the Federal Aviation Administration issues airmen certificates
- SB 0786 Authorizes certain design and build contracts when the contractor is not licensed in Missouri
- SB 0892 Allows certain additional services to be prepurchased from cemeteries
- SB 0980 Revises reciprocal licensing procedures for physical therapists (Vetoed)
- SB 1182 Modifies the law relating to health care professionals under the State Board of Registration for the Healing Arts
- SB 1207 Requires the state board of registration for the healing arts to accept continuing medical education on autism
- HB 1937 Modifies provisions for the licensure of clinical perfusionists
- HB 1964 Excludes certain neighborhood associations from certain statutes governing real estate agents
- HB 2001 Allows the dental board to enter into diversion agreements with licensees in lieu of formal disciplinary action

LIENS

- SB 0895 Amends various provisions related to financial institutions
- HB 1075 Revises procedure for landowners to acquire title to abandoned vehicles
- HB 1768 Provides that liens of judgments or decrees on real estate shall continue for ten years

MANUFACTURED HOUSING

- SB 0895 Amends various provisions related to financial institutions
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MARRIAGE AND DIVORCE

- SB 1247 Requires the Kansas City Firefighters Pension Fund to recognize domestic relations orders

MEDICAL PROCEDURES AND PERSONNEL

- SB 0712 Modifies provisions relating to terrorism
SB 0714 Allows the state to temporarily license certain health care practitioners during a state public health emergency
SB 1024 Requires physicians to maintain adequate and complete medical records for their patients
SB 1107 Revises laws relating to ambulance districts, fire protection districts and ambulance services
SB 1182 Modifies the law relating to health care professionals under the State Board of Registration for the Healing Arts
SB 1244 Allows the continuation of a newborn hearing screening from a transferring facility to a receiving facility
HB 1443 Modifies provisions relating to child abandonment
HB 1473 Allows enrollees to obtain managed care documents via the Internet & exempts certain policies from health benefit plan
HB 1548 Allows the continuation of a newborn hearing screening from a transferring facility to a receiving facility
HB 1756 Modifies testing of and release of records regarding certain sexually transmitted diseases

MENTAL HEALTH DEPT.

- SB 0804 Authorizes Governor to convey 12 property interests held by the Department of Mental Health to Kansas City
SB 0923 Modifies various provisions relating to children and families

MILITARY AFFAIRS

- SB 0745 Allows Marines and Navy personnel who participated in combat to receive Combat Action Ribbon license plates
SB 0859 Modifies A+ program's three-year attendance requirement and gives supremacy to tuition reimbursements over school grants
SB 0957 Creates Operation Enduring Freedom license plates & revises law on historic motor vehicle license plates
HB 1205 Creates various special license plates related to the military
HB 1265 Requires selective service registration of all male driver's license applicants eighteen to twenty-one years of age
HB 1398 Revises the World War II medallion program
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- HB 1399 Modifies the deadline for filing applications for World War II medals from January 1, 2002 to July 1, 2003
- HB 1515 Extends provisions of the honorary high school diploma program for veterans to include POWs
- HB 1822 Employees charged military leave only for hours which they would have otherwise worked, in one hour increments
- HB 2047 Expands criteria for college students called into military service to qualify for tuition refunds & incomplete grades

MORTGAGES AND DEEDS

- SB 0729 Mortgages may be insured in an amount not to exceed 103% of fair market value of the property
- HB 1375 Mortgages may be insured in an amount not to exceed 103% of fair market value of property

MOTELS AND HOTELS

- SB 1243 Changes term innkeeper to lodging establishment and changes posting of notice requirements for lodging establishments

MOTOR CARRIERS

- SB 1107 Revises laws relating to ambulance districts, fire protection districts and ambulance services
- SB 1202 Transfers various powers to the Department of Transportation to implement Governor's Executive Order

MOTOR FUEL

- SB 0915 Raises motor fuel tax and sales tax and diverts other revenues to fund transportation projects
- HB 1196 Modifies various provisions relating to transportation, sales tax, and billboard provisions
- HB 1348 Makes numerous changes to agricultural programs

MOTOR VEHICLES

- SB 0644 Allows veterans to obtain a specialized veteran motorcycle license plate
- SB 0727 Revises the law regarding tinted windows
- SB 0737 Allows 4-H members and parents of 4-H members to obtain special license plates
- SB 0745 Allows Marines and Navy personnel who participated in combat to receive Combat Action Ribbon license plates
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- SB 0798 Allows two sets of specialized plates to be issued to U.S. Congressional members
- SB 0915 Raises motor fuel tax and sales tax and diverts other revenues to fund transportation projects
- SB 0957 Creates Operation Enduring Freedom license plates & revises law on historic motor vehicle license plates
- SB 0960 Creates the "God Bless America", "Pet Friendly" and "Air Medal" license plates
- SB 0966 Creates the St. Louis College of Pharmacy special license plate
- SB 1093 Revises the process for the registration of historic motor vehicle plates
- SB 1109 Requires department of revenue to issue information regarding driving while intoxicated to 1st time licensees
- SB 1202 Transfers various powers to the Department of Transportation to implement Governor's Executive Order
- SB 1241 Allows persons to receive various specialized license plates and limits certain organizations from sponsoring plates
- HB 1075 Revises procedure for landowners to acquire title to abandoned vehicles
- HB 1093 Allows motorists to obtain various special license plates & limits the issuance of such plates to certain entities
- HB 1196 Modifies various provisions relating to transportation, sales tax, and billboard provisions
- HB 1205 Creates various special license plates related to the military
- HB 1270 Revises various laws pertaining to the operation of motor vehicles
- HB 1386 Revises the law regarding tinted windows
- HB 1789 Allows special license plates for former members of the General Assembly & revises historic motor vehicle plates law (Vetoed)
- HB 2008 Revises provisions relating to the sale and titling of motor vehicles and vessels
- HB 2009 Creates advertising signage requirements for motor vehicle dealers
- HB 2062 Revises various provisions relating to restricted driving privilege

NATIONAL GUARD

- HB 1822 Employees charged military leave only for hours which they would have otherwise worked, in one hour increments
- HB 2047 Expands criteria for college students called into military service to qualify for tuition refunds & incomplete grades

NATURAL RESOURCES DEPT.

- SB 0708 Revises membership of Clean Water Commission
- SB 0810 Modifies provisions relating to supplemental assistance payments for the elderly and disabled
- SB 0984 Revises various provisions relating to the Department of Natural Resources
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- SB 1011 Removes references to used tires from the waste tire law and sets emission limits for use of tire derived fuel
- SB 1015 Revises long-term contract provisions at state parks and creates Endowment Fund for Arrow Rock State Park
- SB 1041 Authorizes conveyance of property owned by Dept. of Natural Resources to private ownership
- SB 1163 Clarifies provisions in the air emissions banking and trading program
- SB 1202 Transfers various powers to the Department of Transportation to implement Governor's Executive Order
- SCR 074 Renames the conference center at Roaring River State Park the Emory Melton Inn and Conference Center
- HB 1748 Revises various provisions relating to water resources (Vetoed)

NURSES

- SB 1182 Modifies the law relating to health care professionals under the State Board of Registration for the Healing Arts
- HB 1600 Alters provisions regarding accountants, the executive board of nursing, and placards in pool halls

NURSING AND BOARDING HOMES

- SB 1094 Extends the sunset on the nursing facility reimbursement allowance and exempts PACE projects from HMO requirements
- HB 1781 Extends the sunset on the nursing facility reimbursement allowance to September 30, 2005

PARKS AND RECREATION

- SB 1015 Revises long-term contract provisions at state parks and creates Endowment Fund for Arrow Rock State Park
- SB 1041 Authorizes conveyance of property owned by Dept. of Natural Resources to private ownership
- SCR 074 Renames the conference center at Roaring River State Park the Emory Melton Inn and Conference Center

PAWNBROKERS

- HB 1888 Revises pawnbroker provisions, theft crime felony limits, third offense stealing charges and bad check costs

PHYSICIANS

- SB 0714 Allows the state to temporarily license certain health care practitioners during a state public health emergency
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- SB 1024 Requires physicians to maintain adequate and complete medical records for their patients
- SB 1182 Modifies the law relating to health care professionals under the State Board of Registration for the Healing Arts
- SB 1207 Requires the state board of registration for the healing arts to accept continuing medical education on autism

PHYSICAL THERAPISTS

- SB 0980 Revises reciprocal licensing procedures for physical therapists (Vetoed)

POLITICAL PARTIES

- SB 0675 Revises election laws
- HB 1342 Provides that no election must be held for party committee- man or woman if only one person files prior to the deadline
- HB 1492 Changes campaign finance disclosure report deadlines

POLITICAL SUBDIVISIONS

- SB 0726 September 11th is Emergency Services Day
- SB 0758 Clarifies registration requirements for offenders
- SB 0795 Creates Emergency Communications Systems Fund for use of counties and allows certain board to set and collect fees
- SB 1028 Revises process for creation of law enforcement districts
- SB 1107 Revises laws relating to ambulance districts, fire protection districts and ambulance services
- HB 1402 Modifies provisions relating to utility projects
- HB 1659 Allows court clerks to collect certain locally-imposed surcharges if authorized by statute
- HB 1839 Modifies procedure for dissolution of special road districts
- HJR 047 Allows joint boards and commissions to own, operate and issue bonds for joint municipal utility projects

PRISONS AND JAILS

- HB 1078 Authorizes sales tax for regional jail districts and associated court facilities

PROBATION AND PAROLE

- SB 0969 Revises numerous provisions relating to the sex offender registry and other sex crimes
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PROPERTY, REAL AND PERSONAL

- SB 0804 Authorizes Governor to convey 12 property interests held by the Department of Mental Health to Kansas City
- SB 0840 Revises the statute of limitations and adds economic loss damages for home improvements
- SB 0895 Amends various provisions related to financial institutions
- SB 1041 Authorizes conveyance of property owned by Dept. of Natural Resources to private ownership
- SB 1102 Allows county prosecutors and circuit attorneys to prosecute nuisance cases
- SB 1124 Authorizes the governor to convey certain property in the city of St. Louis
- SB 1168 Authorizes the conveyance of a clear zone easement to the city of Lebanon and the conveyance of certain state property
- HB 1075 Revises procedure for landowners to acquire title to abandoned vehicles
- HB 1375 Mortgages may be insured in an amount not to exceed 103% of fair market value of property
- HB 1580 Revises statute concerning county boards of equalization
- HB 1768 Provides that liens of judgments or decrees on real estate shall continue for ten years
- HB 1811 Authorizes various conveyances of property
- HB 1849 Authorizes conveyance of state property to the Crawford County Commission
- HB 1861 Authorizes a conveyance of state property to the Habitat for Humanity of St. Francois County
- HB 1888 Revises pawnbroker provisions, theft crime felony limits, third offense stealing charges and bad check costs
- HB 1964 Excludes certain neighborhood associations from certain statutes governing real estate agents
- HB 2008 Revises provisions relating to the sale and titling of motor vehicles and vessels
- HB 2064 Changes requirements for sheriff's deeds given under the Municipal Land Reutilization Law
- HB 2130 Clarifies the deadline for personal property tax returns property listings

PUBLIC ASSISTANCE

- SB 0810 Modifies provisions relating to supplemental assistance payments for the elderly and disabled

PUBLIC BUILDINGS

- SB 1012 Extends the period of payments from 10 to 20 years on guaranteed energy cost savings contracts
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- SB 1119 Authorizes Office of Administration to provide security guards at state-owned or leased buildings
- SB 1191 Creates MO Tobacco Settlement Auth. which may issue bonds to be repaid w/net tobacco settlement agreement recoveries

PUBLIC RECORDS, PUBLIC MEETINGS

- HB 2064 Changes requirements for sheriff's deeds given under the Municipal Land Reutilization Law

PUBLIC SAFETY DEPT.

- SB 0712 Modifies provisions relating to terrorism
- SB 0727 Revises the law regarding tinted windows
- HB 1838 Requires certification of place of business for motor vehicle dealers, boat dealers and boat manufacturers
- HB 1895 Establishes the Criminal Records and Justice Information Advisory Committee

RAILROADS

- SB 1202 Transfers various powers to the Department of Transportation to implement Governor's Executive Order
- SB 1213 Requires railroad policemen to be commissioned

RELIGION

- HB 1148 Religious cemeteries may establish scatter gardens in cemetery for scattering of human cremains

RETIREMENT-LOCAL GOVERNMENT

- HB 2080 Revises retirement provisions for counties who elected to have a full-time prosecuting attorney prior to 8/28/01

RETIREMENT-STATE

- HB 1455 Revises provisions of certain public retirement systems

RETIREMENT SYSTEMS AND BENEFITS-GENERAL

- SB 0961 Modifies provisions relating to the Kansas City police retirement system (Vetoed)
- SB 0967 Allows spouses or dependents of deceased retired officers & employees receiving a pension to purchase insurance
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- SB 1001 Requires all counties or St. Louis who participate in the sheriff retirement system to also fund the system
- SB 1247 Requires the Kansas City Firefighters Pension Fund to recognize domestic relations orders
- HB 1455 Revises provisions of certain public retirement systems
- HB 1674 Requires retirement plans to file proposed rules with the Joint Committee on Public Employee Retirement
- HB 2080 Revises retirement provisions for counties who elected to have a full-time prosecuting attorney prior to 8/28/01

REVENUE DEPT.

- SB 0644 Allows veterans to obtain a specialized veteran motorcycle license plate
- SB 0745 Allows Marines and Navy personnel who participated in combat to receive Combat Action Ribbon license plates
- SB 0798 Allows two sets of specialized plates to be issued to U.S. Congressional members
- SB 0966 Creates the St. Louis College of Pharmacy special license plate
- SB 1078 Changes the custodian of the Statutory County Recorder's Fund
- SB 1093 Revises the process for the registration of historic motor vehicle plates
- SB 1109 Requires department of revenue to issue information regarding driving while intoxicated to 1st time licensees
- SB 1202 Transfers various powers to the Department of Transportation to implement Governor's Executive Order
- SB 1241 Allows persons to receive various specialized license plates and limits certain organizations from sponsoring plates
- SB 1248 Modifies various provisions related to collection and refund procedures of sales and income taxes
- SB 1266 Creates felony for sale or distribution of gray market cigarettes
- HB 1075 Revises procedure for landowners to acquire title to abandoned vehicles
- HB 1078 Authorizes sales tax for regional jail districts and associated court facilities
- HB 1093 Allows motorists to obtain various special license plates & limits the issuance of such plates to certain entities
- HB 1196 Modifies various provisions relating to transportation, sales tax, and billboard provisions
- HB 1205 Creates various special license plates related to the military
- HB 1265 Requires selective service registration of all male driver's license applicants eighteen to twenty-one years of age
- HB 1776 Relocates custody of the Statutory County Recorder's Fund and limits fees for processing certain adoption documents
- HB 1789 Allows special license plates for former members of the General Assembly & revises historic motor vehicle plates law (Vetoed)
- HB 1838 Requires certification of place of business for motor vehicle dealers, boat dealers and boat manufacturers
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- HB 2008 Revises provisions relating to the sale and titling of motor vehicles and vessels
HB 2009 Creates advertising signage requirements for motor vehicle dealers
HB 2062 Revises various provisions relating to restricted driving privilege

REVISION BILLS

- HB 2078 Repeals obsolete and expired sections of law

ROADS AND HIGHWAYS

- SB 0804 Authorizes Governor to convey 12 property interests held by the Department of Mental Health to Kansas City
SB 0891 Changes ownership requirements for members of a transportation development district
SB 0915 Raises motor fuel tax and sales tax and diverts other revenues to fund transportation projects
SB 0950 Designates a portion of Interstate 44 as the "Henry Shaw Ozark Corridor"
SB 0974 Eliminates the issuance of permits to haul lumber products and earth-moving equipment under fourteen feet in width
SB 1199 Designates various portions of highways as the Sergeant Randy Sullivan Memorial Highway and Ozark Mills Country
HB 1141 Designates various highways & bridges as memorial highways and designates an official state horse
HB 1196 Modifies various provisions relating to transportation, sales tax, and billboard provisions
HB 1270 Revises various laws pertaining to the operation of motor vehicles
HB 1508 Revises various provisions relating to outdoor advertising
HB 1789 Allows special license plates for former members of the General Assembly & revises historic motor vehicle plates law (Vetoed)
HB 1839 Modifies procedure for dissolution of special road districts
HB 2039 Allows counties, cities, or villages to designate memorial highways for law enforcement officers killed in line of duty

SAINT LOUIS

- SB 1124 Authorizes the governor to convey certain property in the city of St. Louis
HB 1041 Makes various revisions to tourism taxes and tax levies in various cities and counties
HB 1634 Allows requisition of additional funds by land trusts if insufficient funds exist to pay expenses
HB 1773 Modifies the compensation, vacation, and holidays of members of the City of St. Louis Police Department
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- HB 1811 Authorizes various conveyances of property
HB 2064 Changes requirements for sheriff's deeds given under the Municipal Land Reutilization Law

SAINT LOUIS COUNTY

- HB 1041 Makes various revisions to tourism taxes and tax levies in various cities and counties

SALARIES

- HB 1773 Modifies the compensation, vacation, and holidays of members of the City of St. Louis Police Department
HB 2137 Increases compensation for county treasurers

SAVINGS AND LOAN

- SB 0884 Creates new restrictions on interest that can be charged in payday loans

SECRETARY OF STATE

- SB 0675 Revises election laws
SB 0749 Specifies the effective dates for laws passed by initiative and vetoed bills when veto is overridden (Vetoed)
SB 0812 Requires all executive orders to be published in the Missouri Register after January 1, 2003
HB 1776 Relocates custody of the Statutory County Recorder's Fund and limits fees for processing certain adoption documents

SECURITIES

- SB 1009 Modifies the law on insurance company investments and modifies law regarding long-term care insurance

SEWERS AND SEWER DISTRICTS

- SB 0984 Revises various provisions relating to the Department of Natural Resources
HB 1748 Revises various provisions relating to water resources (Vetoed)

SOCIAL SERVICES DEPT.

- SB 0810 Modifies provisions relating to supplemental assistance payments for the elderly and disabled
SB 0923 Modifies various provisions relating to children and families
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- HB 1443 Modifies provisions relating to child abandonment
HB 1926 Extends the sunset on the Children's Health Insurance Program to July 1, 2007

STATE DEPARTMENTS

- SB 0831 Establishes December 15th as Bill of Rights Day
HB 1196 Modifies various provisions relating to transportation, sales tax, and billboard provisions

STATE EMPLOYEES

- HB 1455 Revises provisions of certain public retirement systems
HB 1822 Employees charged military leave only for hours which they would have otherwise worked, in one hour increments

STATE TAX COMMISSION

- HB 1580 Revises statute concerning county boards of equalization
HB 2018 Requires county clerk of Jackson County to forward tax books for school districts by June 15
HB 2130 Clarifies the deadline for personal property tax returns property listings

TAXATION AND REVENUE-GENERAL

- SB 0856 Authorizes a new enterprise zone for Wright County and for the city of Carl Junction in Jasper County
SB 0915 Raises motor fuel tax and sales tax and diverts other revenues to fund transportation projects
SB 1248 Modifies various provisions related to collection and refund procedures of sales and income taxes
HB 1078 Authorizes sales tax for regional jail districts and associated court facilities
HB 1150 Permits negotiation and provides amnesty for taxes, allows Simplified Sales Tax Admin., & reforms property assessment
HB 1196 Modifies various provisions relating to transportation, sales tax, and billboard provisions
HB 1580 Revises statute concerning county boards of equalization
HB 1890 Codifies Mobile Telecommunications Sourcing Act
HB 2018 Requires county clerk of Jackson County to forward tax books for school districts by June 15
HB 2022 Reenacts section 178.870 and allows the establishment of community college capital improvement subdistricts
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TAXATION AND REVENUE-INCOME

- SB 0959 Director of Revenue may issue opinion whether certain investment corporations may use multistate income calculation
- SB 1248 Modifies various provisions related to collection and refund procedures of sales and income taxes
- HB 1150 Permits negotiation and provides amnesty for taxes, allows Simplified Sales Tax Admin., & reforms property assessment

TAXATION AND REVENUE-PROPERTY

- SB 0795 Creates Emergency Communications Systems Fund for use of counties and allows certain board to set and collect fees
- SB 0947 Revises community colleges' property tax rates, capital improvement subdistricts, & MOHEFA direct deposit agreements
- SB 0997 Modifies duties of county collectors with respect to financial institutions
- SB 1217 Clarifies the deadline for personal property tax returns
- HB 1580 Revises statute concerning county boards of equalization
- HB 1634 Allows requisition of additional funds by land trusts if insufficient funds exist to pay expenses
- HB 2018 Requires county clerk of Jackson County to forward tax books for school districts by June 15
- HB 2022 Reenacts section 178.870 and allows the establishment of community college capital improvement subdistricts
- HB 2064 Changes requirements for sheriff's deeds given under the Municipal Land Reutilization Law
- HB 2130 Clarifies the deadline for personal property tax returns property listings

TAXATION AND REVENUE-SALES AND USE

- SB 1151 Expands purposes for which certain local tourism taxes can be used
- SB 1210 Permits a hotel tax to be submitted to a vote in certain locations
- SB 1248 Modifies various provisions related to collection and refund procedures of sales and income taxes
- HB 1041 Makes various revisions to tourism taxes and tax levies in various cities and counties
- HB 1078 Authorizes sales tax for regional jail districts and associated court facilities
- HB 1150 Permits negotiation and provides amnesty for taxes, allows Simplified Sales Tax Admin., & reforms property assessment
- HB 1890 Codifies Mobile Telecommunications Sourcing Act
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TEACHERS

- SB 0722 Renders alterations to policies regarding teachers' licenses and permits temporary administrator certificates
- HB 1711 Generates numerous changes to the state's education policy including modifications concerning the foundation formula

TELECOMMUNICATIONS

- HB 1402 Modifies provisions relating to utility projects
- HB 1890 Codifies Mobile Telecommunications Sourcing Act

TOBACCO PRODUCTS

- SB 1266 Creates felony for sale or distribution of gray market cigarettes

TOURISM

- SB 1151 Expands purposes for which certain local tourism taxes can be used
- SB 1210 Permits a hotel tax to be submitted to a vote in certain locations
- HB 1041 Makes various revisions to tourism taxes and tax levies in various cities and counties

TRANSPORTATION

- SB 0727 Revises the law regarding tinted windows
- SB 0891 Changes ownership requirements for members of a transportation development district
- SB 0915 Raises motor fuel tax and sales tax and diverts other revenues to fund transportation projects
- SB 0950 Designates a portion of Interstate 44 as the "Henry Shaw Ozark Corridor"
- SB 0974 Eliminates the issuance of permits to haul lumber products and earth-moving equipment under fourteen feet in width
- SB 1202 Transfers various powers to the Department of Transportation to implement Governor's Executive Order
- HB 1196 Modifies various provisions relating to transportation, sales tax, and billboard provisions
- HB 1508 Revises various provisions relating to outdoor advertising

TRANSPORTATION DEPT.

- SB 0891 Changes ownership requirements for members of a transportation development district
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- SB 0915 Raises motor fuel tax and sales tax and diverts other revenues to fund transportation projects
- SB 0974 Eliminates the issuance of permits to haul lumber products and earth-moving equipment under fourteen feet in width
- SB 1199 Designates various portions of highways as the Sergeant Randy Sullivan Memorial Highway and Ozark Mills Country
- SB 1202 Transfers various powers to the Department of Transportation to implement Governor's Executive Order
- HB 1141 Designates various highways & bridges as memorial highways and designates an official state horse
- HB 1196 Modifies various provisions relating to transportation, sales tax, and billboard provisions
- HB 1270 Revises various laws pertaining to the operation of motor vehicles
- HB 1455 Revises provisions of certain public retirement systems
- HB 1508 Revises various provisions relating to outdoor advertising

TREASURER, STATE

- SB 0795 Creates Emergency Communications Systems Fund for use of counties and allows certain board to set and collect fees
- SB 1078 Changes the custodian of the Statutory County Recorder's Fund
- HB 1776 Relocates custody of the Statutory County Recorder's Fund and limits fees for processing certain adoption documents

URBAN REDEVELOPMENT

- SB 0992 Authorizes Buchanan County to seek a grant from the Contiguous Property Redevelopment Fund

UTILITIES

- HB 1402 Modifies provisions relating to utility projects
- HB 1635 Allows interest to accrue on deposits held by water corporations
- HJR 047 Allows joint boards and commissions to own, operate and issue bonds for joint municipal utility projects

VETERANS

- SB 0644 Allows veterans to obtain a specialized veteran motorcycle license plate
- SB 0745 Allows Marines and Navy personnel who participated in combat to receive Combat Action Ribbon license plates
- SB 0960 Creates the "God Bless America", "Pet Friendly" and "Air Medal" license plates
- HB 1398 Revises the World War II medallion program
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- HB 1399 Modifies the deadline for filing applications for World War II medals from January 1, 2002 to July 1, 2003
- HB 1515 Extends provisions of the honorary high school diploma program for veterans to include POWs
- HB 1519 Designates April 19th of each year as "Patriots Day"

VICTIMS OF CRIME

- HB 1756 Modifies testing of and release of records regarding certain sexually transmitted diseases

VITAL STATISTICS

- SB 1132 Authorizes the recorder of deeds in the city of St. Louis to be named the local registrar for birth and death records

WASTE-SOLID

- SB 1011 Removes references to used tires from the waste tire law and sets emission limits for use of tire derived fuel

WATER PATROL

- HB 1838 Requires certification of place of business for motor vehicle dealers, boat dealers and boat manufacturers

WATER RESOURCES AND WATER DISTRICTS

- SB 0708 Revises membership of Clean Water Commission
- SB 0984 Revises various provisions relating to the Department of Natural Resources
- HB 1635 Allows interest to accrue on deposits held by water corporations
- HB 1748 Revises various provisions relating to water resources (Vetoed)

WEAPONS

- SB 1119 Authorizes Office of Administration to provide security guards at state-owned or leased buildings

WEIGHTS AND MEASURES

- SB 1071 Revises current weights and measures law
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